

# Maharashtra Theatres Private Limited

---



## Maharashtra Theatres Private Limited

RNA Corporate Park Next to Collector's Office, Kalanagar, Bandra (East), Mumbai – 400 051

(Updated on 16<sup>th</sup> October 2023)

Prepared By

**Shailesh Desai – Resolution Professional**

IBBI Registration No: IBBI/IPA-001/IP-P00183/2017-18/10362

Support Insolvency Professional Entity (IPE)

**Headway Resolution & Insolvency Services Pvt Ltd**

708, Raheja Centre, Free Press Marg, Nariman Point, Mumbai – 400021; Tel: 022 – 66107433;

Email: mtplcirp@gmail.com; ip10362.desai@gmail.com;

# Maharashtra Theatres Private Limited

---

## Executive Summary

Executive Summary	
Particulars	Details
Name of the Company	Maharashtra Theatres Private Limited
CIN	U92110MH1969PTC014480
Date of Incorporation	17th December 1969
Registration No.	014480
Registered Address	RNA Corporate Park Next to Collector's Office, Kalanagar, Bandra (East), Mumbai – 400 051
Line of Activity	The Company is engaged in the business of Owning & Leasing of commercial property.
ROC	ROC – Mumbai
Category	Company Limited by Shares
Subcategory	Non – Govt. Company
Type of Enterprise	Registered as “Medium Services Enterprise” under the Revised MSME Classification vide Udyam Registration Number - UDYAM-MH-18-0214291 dated 31 <sup>st</sup> January 2023.
Company Class	Private
Company Status (for e-filing)	Active
Whether listed or not	Unlisted
Suspended Board of Directors	1. Mr. Anubhav Aggarwal Anilkumar 2. Mr. Gokul Anilkumar Aggarwal and 3. Mr. Deenbandhu Bhairam Mishra
Statutory Auditors	M/s. Bharat Singhal & Co., Chartered Accountants, 404, Sai Chamber Premises, Opp. Railway Station, Santacruz East, Mumbai – 400055
<i>Source: MCA21's website</i>	

# Maharashtra Theatres Private Limited

---

Maharashtra Theatres Private Limited (MTPL) is RNA group company. The group is managed by Mr. Anubhav Aggarwal. RNA was one of the leading developers/builders in Mumbai. RNA group took over MTPL, which owned the land and the theatre there on at Kalanagar, Bandra (E). MTPL demolished the theatre and built a new commercial complex by the name of "RNA Corporate Park". Although, the promoters of the company are in the business of real estate development, MTPL as a company has no business activity other than rent income from leasing commercial space.

The MTPL is registered as "Medium Services Enterprise" under the Revised MSME Classification vide Udyam Registration Number - UDYAM- MH-18-0214291 dated 31st January 2023. Certificate Attached as **Annexure A**.

The MTPL has an eight (8) storey commercial building premises building known as "RNA Corporate Park" constructed on all that piece and parcel of plot of Land admeasuring about 4,515 sq. meters bearing Survey No.341-A corresponding C.T.S. No. 629/1252 at Sant Gyaneshwar Road, Bandra (East), Mumbai - 400 051. The Said Land has been leased to the MTPL by the Govt. of Maharashtra for a period of 99 years vide their letter dated 11th Sept 1969 with the lease period commencing from 2<sup>nd</sup> Jan 1970.

Various memorandums and orders were issued by the Government from time to time in respect of the change of use and consumption of the permissible FSI of the said land by MTPL. Further the Government in Revenue and Forest Department vide its resolution No. Land 2600/1316/Pra.Kra. 292/J-3, dt. 15/11/2001 have granted permission for change of user in respect of permissible F.S.I. one, to be used as: - 10% F.S.I for Cinema Theatre and 90% F.S.I. for offices premises. In additions to conditions of 10% F.S.I. for Cinema theatre, having a capacity of 150 seats should be accommodated/constructed.

MTPL has a lease land whose Lessor is Government of Maharashtra. There is contractual Lease Agreement between MTPL and Government of Maharashtra. The detailed terms and conditions towards the use and payments of consideration are mentioned in the attached Lease Agreement attached as **Annexure B**.

# Maharashtra Theatres Private Limited

---

MTPL has various liabilities related to land as follows:

1. Property Tax outstanding dues of Rs.29,23,78,567/-
2. Income Tax claim received for Rs. 3,53,44,742/-
3. The Collector, MSD has passed the order against MTPL as under.
  - a. Directed MTPL to pay Rs.2,15,77,185 for extension of timeline for Building Construction within 30 days period,
  - b. Directed to pay Rs. 7,10, 78,269/- as a Sublet License Fees
  - c. Directed to pay Rs. 58,11,65,226/- towards 50% unearned income. MTPL filed an appeal and in that it was directed to recover the unearned income from the actual buyer and seller and not from MTPL. Being aggrieved by this order both buyer and seller have filed the Revision Application before Revenue Minister, Ministry of Revenue, Government of Maharashtra. The matter is pending before the Ministry of Revenue.

## **Total Area**

<b>RNA Corporate Park</b>	
	<b>Sq. Mt</b>
Gr. Floor	1,211
1st Floor	1,016
2nd Floor	1,016
3rd Floor	1,016
4th Floor	1,016
5th Floor	1,016
6th Floor	930
7th Floor	828
8th Floor	303
	<b>8352</b>

Floor Plan provided via separate link.

**Status of Lease Land** – During the ongoing valuation process, it has been observed that 7/12 land record of the Company has been mutated on 31<sup>st</sup> January 2023 and the land has been transferred back to the Govt. of Maharashtra. The RP has filed a writ petition with the High Court of Bombay against this decision of the Govt. of Maharashtra. Copy of the Writ Petition is attached as **Annexure C**.



# Maharashtra Theatres Private Limited

---

## Documents Attached -

1. The MSME Certificate has been attached as **Annexure A**
2. The Lease Agreement is attached herewith as **Annexure B**.
3. Writ Petition filed with High Court as **Annexure C**
4. OC letter as **Annexure D**
5. Property Card are attached as **Annexure E**

Floor Plans at below link -

<https://drive.google.com/file/d/12z7yPanykwICNAuw7Y6BsNaYE0sSQMTg/view?usp=sharing>

[g](#)

# Maharashtra Theatres Private Limited

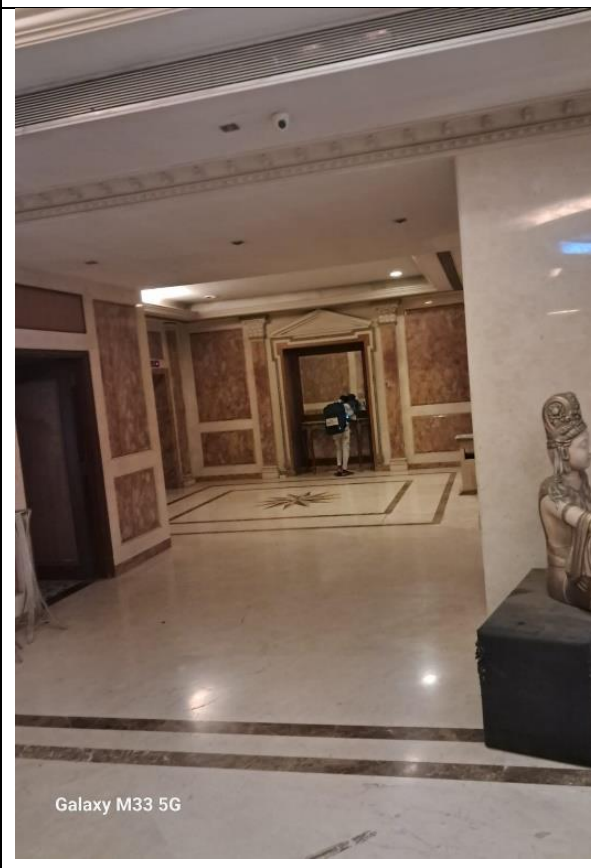
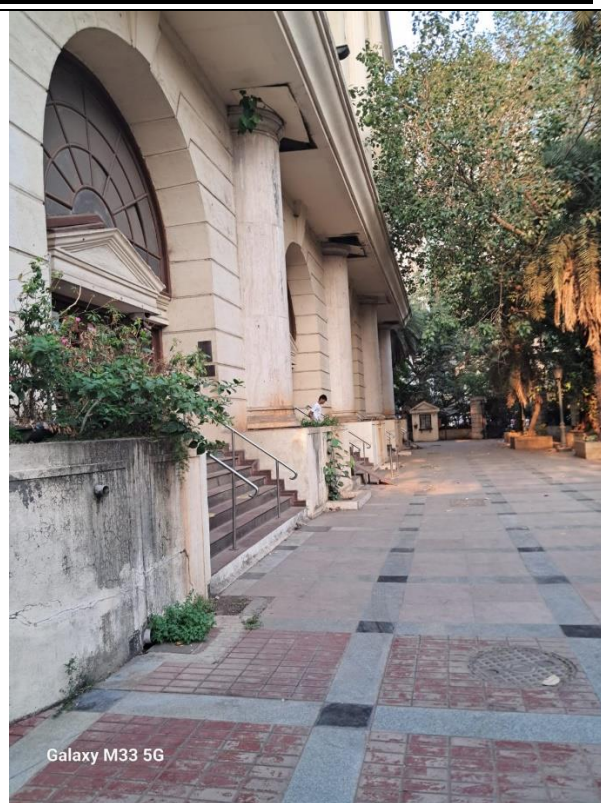
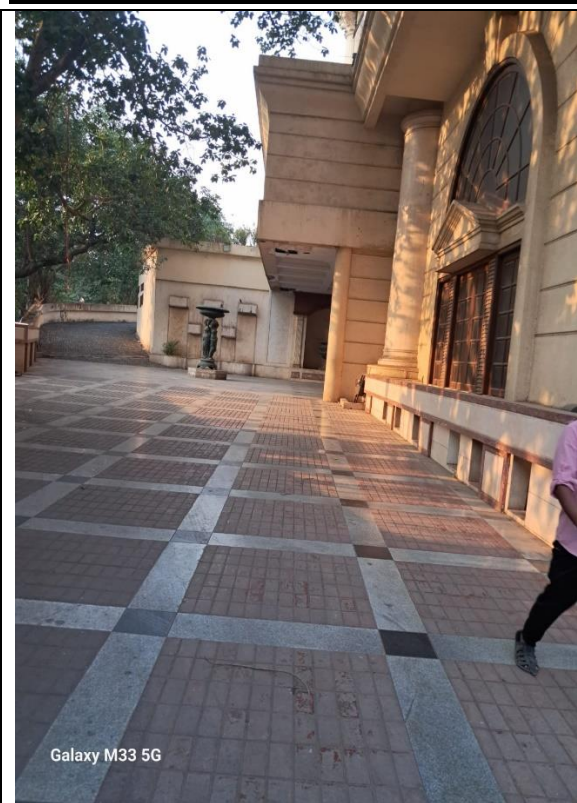
---

## Photographs





# Maharashtra Theatres Private Limited





## UDYAM REGISTRATION CERTIFICATE

UDYAM REGISTRATION NUMBER

UDYAM-MH-18-0214291

NAME OF ENTERPRISE

M/S MAHARASHTRA THEATRES PVT LTD

TYPE OF ENTERPRISE \*

SNo.	Classification Year	Enterprise Type	Classification Date
1	2023-24	Small	09/05/2023
2	2022-23	Small	31/01/2023

MAJOR ACTIVITY

**SERVICES**

SOCIAL CATEGORY OF  
ENTREPRENEUR

GENERAL

NAME OF UNIT(S)

S.No.	Name of Unit(s)
1	MAHARASHTRA THEATRES PRIVATE LIMITED

OFFICAL ADDRESS OF ENTERPRISE

Flat/Door/Block No.	801	Name of Premises/ Building	RNA CORPORATE PARK
Village/Town	BANDRA	Block	KALANAGAR
Road/Street/Lane	SANT DYANESHWAR MARG	City	MUMBAI
State	MAHARASHTRA	District	MUMBAI SUBURBAN , Pin 400051
Mobile	9833827011	Email:	accounts@rnacorporate.com

DATE OF INCORPORATION /  
REGISTRATION OF ENTERPRISE

16/12/1969

DATE OF COMMENCEMENT OF  
PRODUCTION/BUSINESS

16/12/1969

NATIONAL INDUSTRY  
CLASSIFICATION CODE(S)

SNo.	NIC 2 Digit	NIC 4 Digit	NIC 5 Digit	Activity
1	77 - Rental and leasing activities	7740 - Leasing of nonfinancial intangible assets	77400 - Leasing of nonfinancial intangible assets	Services

DATE OF UDYAM REGISTRATION

31/01/2023

\* In case of graduation (upward/reverse) of status of an enterprise, the benefit of the Government Schemes will be availed as per the provisions of Notification No. S.O. 2119(E) dated 26.06.2020 issued by the M/o MSME.

Disclaimer: This is computer generated statement, no signature required. Printed from <https://udyamregistration.gov.in> & Date of printing:-  
24/05/2023

**For any assistance, you may contact:**

**1. District Industries Centre: MUMBAI SUBURBAN ( MAHARASHTRA )**

**2. MSME-DFO: MUMBAI ( MAHARASHTRA )**

Visit : [www.msme.gov.in](http://www.msme.gov.in) ; [www.dcmsme.gov.in](http://www.dcmsme.gov.in) ; [www.udyamregistration.gov.in](http://www.udyamregistration.gov.in)



Follow us @minmsme & @msme



9323 553700

10/11/05

5/11/05

39/501  
14/03/10

10 Certificate u/s 32(1) (b) of the Bombay Stamp Act, 1958.

Office of the Collector of Stamps  
Case No. A.C. 14826/05/1327  
Date

Received from Shri. Mr. Pravin Kumar Agarwal, Director of Maharashtra Theatre Project  
residing at 66, 450/1 B, 5th  
stamp duty of Rs. 66,450/- (Sixty Six Thousand Four Hundred Fifty only)  
vide article No. 3101/05  
Certified under section 32(1)(b) of the Bombay Stamp Act, 1958 that the full duty of Rs. 66,450/- (Sixty Six Thousand Four Hundred Fifty only) with which this instrument is chargeable has been paid vide article No. 3101/05 of 31/01/05.  
This certificate is subject to the provision of section 53 (A) of Bombay Stamp Act, 1958.

Place... C.S.O.  
Date... 14/03/06

[Signature]  
Collector of Stamps  
21/3/06

M.V. No 13,29,000/-  
Area - 4515 sqm

90% of M.V. No 14,76,405/- comes up to 13,29,000/-



LEASE AGREEMENT

THIS AGREEMENT MADE AT MUMBAI THIS 5 DAY OF Dec 2005 BETWEEN THE GOVERNMENT OF MAHARASHTRA, EXECUTING the executive Power of the Government of the State hereinafter called "THE LESSOR", (which expression shall unless repugnant to the context meaning thereof shall mean and include its successors in office and Assigns, etc.) of

ONE PART: AND MAHARASHTRA THE OTHER PART:

Case No. ADJ/2005/100...  
[Signature]  
Inspector of Stamps  
(Mumbai Suburban District)

LTD.,(KALAMANDIR) , a company incorporated under the Indian Companies Act, 1956 and having its registered office at RNA House, 3<sup>rd</sup> floor, 50, Veer Nariman Road, Fort, Mumbai - 400 023, (hereinafter referred to as "THE LESSEE", (which expression shall repugnant to the context meaning thereof shall mean and include the Managing Director, The Secretary and/or successor in interest and/or assignees for time being) of the Other Part.

**WHEREAS**

- a) The Lessor is absolutely seized and possessed of or otherwise well and sufficiently entitled to the piece of land situated bearing Survey No. 341-A of Village Bandra, Taluka Andheri, District Mumbai Suburban.
- b) The lessee requested the Lessor to grant a long term lease of plot of Government land bearing Survey No. 341-A Village Bandra, Taluka Andheri, Mumbai Suburban District and more particularly described in the schedule referred to hereunder which the lessor has agreed to do on the term and conditions hereinafter contained.
- c) In pursuance of the Government Revenue & Forest Department Memorandum No. LND 2667/74200-AI dt. 30/12/1967, letter No. C/LND.SR.II.15 dated 13/1/1968 and Government Resolution Revenue & Forest Depart No. LND. 2667/74220-A1 dated 18/6/1969, the lessor under his office letter No. C/LND.SR.II.A.15 dated 11/9/1969 was pleased to grant lease of Government land adm. 4515 sq. mtrs. (herein after referred to as the "said Plot") from S.No. 341-A of Bandra, Taluka Andheri, Mumbai Suburban District for the period of 99 years for construction of Cinema Theatre subject to the terms and condition in the accompanying memorandum dated 18/6/1969.



- d) The lessees have to deposit an amount of Rs.50000/- provisionally ( the same can be increased or decreased as per Govt. policy/rule) in cash to be kept by the Collector, M.S.D. throughout the term of lease without payment of interest. This deposit or such portion of it as Government may finally determine will be liable to be forfeited by the Collector, M.S.D. if there is any breach of the lease conditions. In case of such forfeiture the lessees will reimburse the deposit to the extent of amount forfeited within 15 days of their being called upon to do so. This right of forfeiture will be in addition to and without prejudice to Government's other rights and remedies against the Lessees under the lease.
- e) The said land being Govt. land no part of the lessor/Govt., revenue cesses or Municipal Taxes etc herein after agreed to be paid by the lessee.
- f) In the meantime the lessee had approached the Government for permission to change the user of land as it was not viable to run the theatre purposes only.

Government conveyed its sanction vide Memorandum No.LND2680/2829-G-8 dt.9/7/1981 for permitting the lessee company to utilize the full permissible F.S.I. for the said mixed users in following manner

- 1) Cinema Theater, 45% of the total area of the land leased to lessee company & continue to be charged lease rent @ 5% of full market value to be calculated at the rate of Rs. 327/- per sq. mtrs.
- 2) Shops and Bank users to use 15% of the F.S.I. for this user. The said area of the land leased to lessee company to be charged lease rent @ 5% of full market value in terms of grant. In addition to the lease rent, 50% of the unearned income on account of rent receivable by the lessee company from the licensees



~



(i.e. 50% of the net profit of the lessee) should also be recovered from the lessee every calendar years.

- 3) Hotel user to utilize 40% F.S.I, for the purpose of hotel to be run by themselves only, 40% of the total area of the lease to the lessee company therefore be charged lease rent at 8% p.a. of the current full market value of the land as may be determined by the Government. The Government has further directed that lessee company should give an undertaking in writing on a stamp paper to the effect that they agree to pay the lease rent at 8% p.a. on the current full market value of the land that will be finally decided by Government in its sole discretion in respect of the 40% of the total area of land.

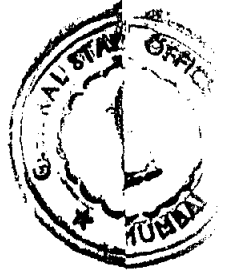
g) The possession of the land granted on lease has already been given to the lessee Company on 2/1/1970, i.e. date of commencement of lease.

h) During the said term hereby granted, lessee co to duly pay to the lessor the lease rent for purpose are as under:

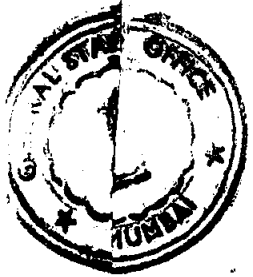
- 1) Cinema F.S.I. 45% (2031.75 sq. mtrs) lease rent Rs. 37071.30 per annum.
- 2) Shops and Bank F.S.I. 15% (677.25 sq. mtrs) lease rent of Rs. 12357.10 per annum

3) Hotel F.S.I. 0.40 (1806.00 sq. mtrs) lease rent Rs. 223198.65 per annum and in manner hereinbefore appointed for payment thereof, clear of all deductions and not to allow the same to fall into arrears.

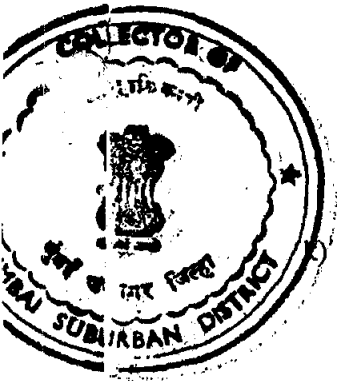
i) Government in Revenue and Forest department vide their resolution dt. 30/6/1994 had permitted to use 10% FSI for Cinema purpose 10% F.S.I. for Bank and shops purpose and remaining 80% F.S.I. for Hotel purpose subject to the of terms and conditions contained in G.R. dt. 9/7/1981. The lessee has to pay lease rent for Hotel purpose @ rate of 8% on the market value Rs.1500/- per sq.mtrs. Lessee company has to run Hotel and should not assign to any person. As per Government directions vide letter dt.11/11/1994, Collector has issued



Corrigendum to their order dt.19/7/1994 that lessee has to pay lease rent on a) 3612.0 sq.mtrs. for the Hotel purposes at the rate of 8% on the full market value of Rs.1500/- per sq.mtrs.i.e. Rs.4,44,397/- per years. and b) 903.0 sq.mtrs. for the Cinema Theatre, Shops and Bank at the rate of 5% on the full market value of Rs.327/- per sq.mtrs. i.e. Rs.16476/- per years. In addition to lessee has to pay 50% net profit per years for the area use of shops and Bank purposes.



- j) Further the Government in Revenue and Forest Department vide its resolution No Land 2600/1316/Pra.Kra 292/J-3, dt. 15/11/01 have granted permission for change of user in respect of permissible F.S.I. one, to be used as :- 10% F.S.I for Cinema Theater and 90% F.S.I. for offices premises. In additions to conditions of 10% F.S.I. for Cinema theatre, having a capacity of 150 seats should be accommodated/constructed. The said permission is granted to lessee on compliance of terms and conditions of the aforesaid order dated 15/11/01.



Further Government in Revenue & Forest Department vide their Resolution No. LND 2600/1316/CR 292/J-3 dt. 20/3/2002 have given permission to avail the benefit of TDR of an area of 4515.00 Sq. mtrs. on payment of 3% premium on the rate of Rs. 327/- per sqmtrs. (provisionally) under the said terms and conditions. The said TDR area ought to used on the plot for users as permissible under the D.C.Regulation in force & with prior permission approved of MCGM.

- l) On representations made by the lessee from time to time to the State Government for the change of user of the land, which was initially granted for construction of Cinema Theatre only. Due to the heavy losses for said user, the State Government is now pleased to grant permission for, change of user of Cinema Theatre, Shops, Banks & Hotels, under several orders bearing Order No.6/DESK III/LND-II-A-15 dt. 4.9.1981, 11/3-D/D-235 dt. 19.7.1994, Land-2697/592/M.No.7019/D-3 dt. 4.9.1997, C/Desk-30/L-235/WS-781 dt.1.1.1998 & Land 2600/1316/M.No. 292/L-3 dt. 6/11/01 & 11/3F/H-0235 dt. 12/12/01. Ultimately the user of the land was allowed to be changed from the initial use of cinema theatre to construction of 10% Cinema Theatre and 90% for Offices premises and also permitted to use TDR on

land for users as permissible under the D.C.Regulations 1991 of Greater Mumbai Municipal Corporation.

IT IS NOW AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS

1. It is agreed and declared that the lease is granted in respect of the aforementioned plot of land subject to the terms & conditions mentioned in letter No. C/LND/SR/II/A-15 dt. 11/9/1969 and memorandum accompanying thereto and the letter dt. 4/9/1981 by the Government in Revenue & Forest Department which are amended from time to time.
2. The lessee is permitted to mortgage the lease hold rights or part thereof with Bank or Financial Institute, subject to conditions laid down in Government in Revenue and Forests Department Memorandum No.Land-2697/572/C.R.7019/J-3 dt.4/9/1997. The lessee should strictly observe the said conditions and comply.
3. The lessee shall develop the leased land by taking into account the F.S.I. as available under the Development Control Rules and abide the terms & conditions mentioned in G.R. dt. 15/11/2001 as amended.
4. The lessee shall pay the lease rent as under :-

Area	Market Value P.S.M.	Total Amount	Percentage of Lease Rent	Amount of lease rent per annum	Purpose
10% i.e. 451.5 sq.mtrs.	Rs.327/-		5%	Rs.8,238/-	Cinema Theatre
90% i.e. 4063.5 sq.mtrs,	Rs.327/-		5%	Rs.74,143/-	Offices



*h*

39501

Aggregating to Rs.82,381/- lease rent per annum and in addition 50% unearned income for office use in case of transfer/rent for the built up area upto 3350.95 sq.mtrs for the initial F.S.I. one except with refrence to use of TDR admeasuring built up area 4515sqmts and will also not be chargeable on the area used by the leasee for themselves from the area admeasuring 3350sqmts i.e. from the initial FSI one. It is clarified that the lessee was liable to pay 50% unearned income as per Government in Revenue and Forests Department Resolution No. Land 2600/1316/C.R.292/J-3 dt.15-11-2001 only with respect to the initial FSI one excluding for the use of TDR admeasuring built up area 4515sqmts as stated above. Now as per prevailing policy of the Govt. with respect to the use of initial FSI, it has revised its policy to charge 50% unearned income in case of transfer/rent vide G.R No LBR 152000/175756/Pra.Kra.163/J-2 dated 23/11/2001 and amended by GR no LBL - 1002/Pra. Kra 154/J-2 dated 24/8/2004 and hence the leasee will be liable now to pay under this GR dated 24/8/2004 which may be modified from time to time.



5. The lessee is permitted to use the TDR on the leased land for user as permissible under the Development Control Rules of the Municipal Corporation of Greater Mumbai on charging the provisionally premium @ 3% (if however Government will fixed the policy the differential amount will be paid by lessee) of the lease rent value arrived@ Rs327/- per sq. mtr under the term and condition of Government in Revenue & Forest Department Resolution No. Land 2600/1316/CR-202/J-3 dt. 20/3/2002. The permission granted for availing the benefit of TDR shall be for the lease period subject to extension of the said lease period. The lessee shall get the building plans duly approved from the Municipal Corporation of Greater Mumbai and concerned appropriate authorities from time to time, before carrying on development and construction on the leased plot under intimation to this office. TDR shall be used as per the Development Control rules

2

and for using the TDR, prior permission of the Municipal Corporation of Greater Mumbai should be obtained.

6. The lessee shall pay the rent hereby reserved regularly and without default. The rent shall be excluding of the taxes, assessments, dues and duties payable in respect of the said land and building or buildings to be constructed thereon, to the Government or the Municipal Corporation of Greater Mumbai or any other local authority or public body and which taxes etc., will be payable by the lessee as and when they become due and payable.

7. All taxes and other outgoings in respect of the lease hold land upto the date should be paid by the lessee.

8. That no work shall be commenced on the demised land until the plan, elevations, details and specifications shall have been approved as aforesaid and thereafter they shall not make any alteration in or additions thereto unless such alterations and additions shall have been approved by the MCGM.

9. That they will not at any time cause to or permit any nuisance in or upon the demise premises or anything which shall cause any unnecessary annoyance, inconvenience or disturbances to the occupiers of any other property in the neighbourhood and they will not erect or permit to be erected on any part of the demised premises any stable shed or other structures of any disruption whatsoever for keeping horse, cattle, dogs or other animals.

10. To permit the lessor or the Collector and the officers surveyors, workmen or other employed by them from time to time and at all reasonable times of the day to enter into and upon the demised premises and to inspect the state of repairs thereof and upon such inspection if it shall appear that any repairs are necessary, they or any of them may be noticed to the lessee and call upon them to execute



*W*

the repair and upon their failure to do so within a reasonable time the lessor may execute them at the expense in all respect the lessee.

11. The lessee hereby for themselves, their successors, respective heirs, executors, administrator and permitted assigns covenant with the lessor as follows:-

i) During the said term hereby granted to duly pay to the lessor the said rent at the time and on the day and in manner hereinbefore appointed for payment thereof clear of all deduction and not allow the same to fall into arrears. To duly pay all existing and future taxes, rates, charges, assessment and outgoing of every description for the time being payable either by the lessee or by the occupier in respect of the demised premises and any things for the time being thereon..

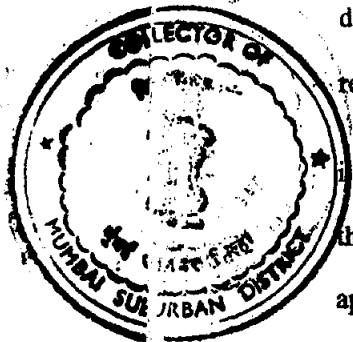
ii) That the lessees will have to obtain the required licences and approval from the Municipal Corporation of Greater Mumbai, Commissioner of Police and other appropriate authorities concerned, if any before starting the construction work.

iii) That the lessee shall reclaim and develop the plot if so required at their own cost to the satisfaction of the Collector, M.S.D.

iv) Not to make any excavation upon any part of the said land hereby demised nor remove any stone, sand gravel, clay or earth there from except for the purpose of forming foundations of the buildings or for the purpose of executing any work on the said land pursuant to the terms of this lease.

v) The user for the demised premises shall be for Theatre and offices and no other purposes whatsoever.

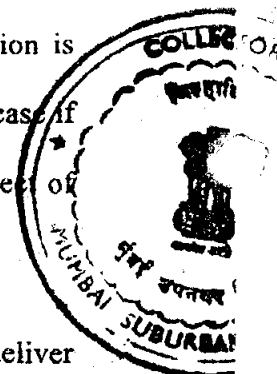
vi) Not to affix or display or permit to be affixed or displayed on any building or erection built or erected or to be built or erected on the demised land any sky sign, signboard, advertisement or any permanent or temporary attachment whatever of the nature of an advertisement without the previous consent in



writing of the lessor. The lessor will be at liberty to refuse such consent or grant it subject to such terms and conditions, as the lessor may in his absolute discretion think fit including a condition requiring payment of such license fees as may be prescribed by the lessor from time to time.

vii) That the lessee shall not directly or indirectly transfer, assign, encumber, mortgage land or part with its interest under or benefit of this lease of land in manner thereof, without the previous consent in writing of the Government. Government will be free to refuse such consent or grant it subject to such conditions including a condition regarding the payment of premium as Government may in its absolute discretion think fit. However this condition is subject to clause 2 hereinabove and shall not be applicable to the leasee in case of its transfer, assigns, encumbers, mortgages or parts with its interest in respect of the structure/structures.

viii) At the expiration or sooner determination of the said terms quietly deliver upto the lessor the demised premises and all erections and buildings then standing or being thereon provided always that the lessees shall be at liberty to retain the premises if they have paid the lease rent due and all Municipal and other taxes, rates and assessments then due and have duly performed and observed the covenants and conditions herein contained. In case of sooner expiration of the said term, to remove and appropriate to themselves buildings, erections and structures and material from the said land but so nevertheless that the lessees shall deliver up as aforesaid to the lessor leveled land and put in good order and condition to the satisfaction of the lessor all land from which such buildings, erections or structures may have been removed.



W

ix) To abide by all other relevant provisions of Maharashtra Land Revenue Code, 1966 (Mah.Act. No.XLI of 1966) and the rules made thereunder and any amendments thereof.

x) In the event of dissolution of the lessee Company, the person to whom the title shall be transferred as successors or otherwise shall cause notice thereof to be given to the lessor within three months from such dissolution.

xi) To bear and pay all costs, charges and expenses of and incidental to drawing, engrossing and completing this lease and its duplicate and matters arising there from including stamp duty, registration charges and costs of all correspondence with the Collector or otherwise and also the cost of one additional copy of the lease, such cost shall be paid by the lessees according to the scale of fees for attorneys prescribed by the High Court of Judicature of Mumbai.

xii) If and whenever any part of the rent hereby reserved shall be in arrears the same may be recovered from the lessees as arrears of land revenue under the provisions of the Maharashtra Land Revenue Code, 1966 (Mah. Act. XLI of 1966) and any amendments thereof.

xiii) If the said rent hereby reserved shall be in arrears for the space of thirty days whether the same shall have been legally demanded or not or if and whenever there shall be a breach by the lessees of any of the covenants and conditions here before contained the lessor may reenter upon any part of the demised premise and thereupon the said term hereby granted and right to renewal thereof shall absolutely cease and determine and in that event no compensation shall be payable to the lessees on account of the building or improvement built or made. Provided always that except for non-payment of rent as aforesaid the power of reentry hereinbefore contained shall not be exercised unless and until the lessor or the Collector on behalf of the lessor shall have given to the lessees or left on same part of the demised premises a notice in writing of his intention to



[Handwritten signature and illegible text]

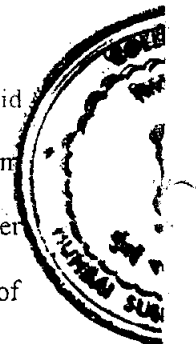


enter and of the specific breach of covenant in respect of which the reentry is intended to be made and default shall have been made by the lessees in remedying such breach or breaches within a reasonable time after giving of such notice.

16) The lessor doth hereby covenant with the lessees that the lessees duly paying the rent hereby reserved and duly observing and performing the covenants and conditions hereinbefore on the lessees part contained shall and may peaceably enjoy the demised premises for the said term hereby granted without any interruption or disturbance from or by the lessor or any person or persons lawfully claiming by from or under the lessor.

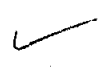
17) The Collector on behalf of the lessor may at his option appropriate the said deposit of Rs.50000/- or any part thereof in or towards satisfaction of any sum due under this lease and for any claims or demands whatsoever (whether liquidated or not) which may at any time be made or have been made on behalf of the lessor from or against the lessees under this lease or against the lessor in respect thereof. The lessees shall always maintain the said original amount of deposit and shall within 15 days of their being called upon to do so deposit further cash or Government securities to make up the original amount of deposit as and when required by the Collector to do so. Upon due compliance by the lessees with all their obligations under this lease the said deposit or such part thereof as shall not have been appropriated as aforesaid shall be paid or transferred to the lessees. The right of forfeiture of deposit will be in addition to and without prejudice to any other rights and remedies of the lessor against the lessees.

18) If the lessees shall have duly performed and observed the covenants and conditions on the part of the lessees hereinbefore contained and shall at the end of the said term hereby granted be desirous of receiving a new lease of the demised



W

39521



premises and of such desire shall give notice in writing to the lessor six months before the expiration of the lease hereby granted then the lessor shall and will at the cost and expense in every respect of the lessees, grant to the lessees a new lease of the demised premises for a further term of thirty years with the covenants, provisions and stipulations as are hereinbefore contained save and except this covenant for renewal and further that on such renewal such yearly rent shall be reserved whether the same be decreased or increased as the lessor shall then determine

19) The lessee is subject to the condition of planting of 45 trees of suitable species and maintaining them throughout on the land in accordance with Rule 52 or the Maharashtra Land Revenue (Disposal of Govt. Land) Rules 1971.

20) That the land with structure thereon will be liable to be resumed to Government without payment of any compensation for breach of the above conditions.

21) This agreement needs to be registered with the Office of the Sub Registrar and Cost of the same to be paid by the lessee.

IN WITNESS WHEREOF the Governor of Maharashtra hath caused the Collector of Mumbai Suburban District to set his hand and affix his official seal on his behalf, and the Lessee has set his hand and Seal (if any) hereunto on his behalf the date and year first above written.

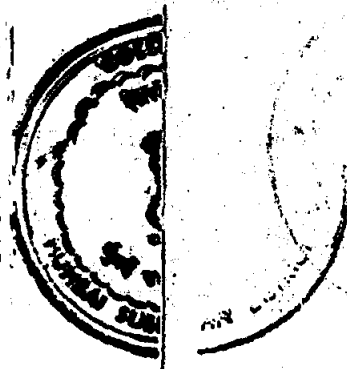
**THE SCHEDULE OF THE PROPERTY REFERRED TO:**

The plot & pieces of land adm 4515 sq. mtrs from Survey No. 341-A of Bandra, Taluka Andheri, Mumbai Suburban District and more particularly described as shown in the accompanying plan and bounded as follows:

On or towards East by : 60ft existing road

*Handwritten mark*

\_\_\_\_\_



30/5/01

On or towards West by: S.no 341A(pt), New Administrative Building

On or towards North by: BEST Bus depot

On or towards South by: 90ft wide existing road

**SIGNED AND DELIVERED** )

by the within named Lessor The S. S. Zende )  
Collector, of the Mumbai Suburban District in )  
the presence of )

*Amme*  
COLLECTOR  
Mumbai Suburban District



witness : )

1. *Wadke*
2. *Wadke*



**SIGNED AND DELIVERED** )  
by the within named Lessee )

M/S. MAHARASHTRA THEATRE PVT. )  
LTD.,(KALAMANDIR) pursuant to the Maharashtra Theatres Pvt. Ltd. )  
Resolution of the board of directors of the said )  
company passed at its meeting duly convened )

*[Signature]*  
Director, Chairman, Managing Director

and held on the day of \_\_\_\_\_

hereto affixed in the presence of

witness :

1. *RAJINDER CHHABRA* *Rajinder*
2. \_\_\_\_\_

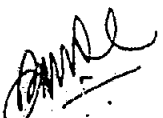
PLAN SHOWING PROPERTY BELONGING TO  
CTS No. 629/1252 ADMEASURING 4.515 SQ MTS OF VILLAGE  
JANDRA, TALUKA ANDHERI, MUMBAI SUBURBAN DISTRICT.

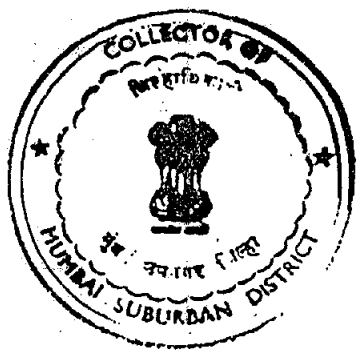
BEST BUS DEPOT

S. NO. - 341A (PE)  
CTS NO. - 629/1252

EXISTING - 60 FT ROAD

EXISTING 90.00 FT ROAD

  
COLLECTOR  
Mumbai Suburban District



N  
SCALE 1:500

  
SURVEYOR

Fw: From Bombay High Court --- 20/09/2023 18:02:54

---

From: veenu khatri (veenukhatri@yahoo.co.in)

To: advmukeshjain@gmail.com

Date: Thursday, 21 September, 2023 at 11:53 am IST

---

----- Forwarded message -----

**From:** Mail from Bombay High Court <hcbom.mah@nic.in>

**To:** "veenukhatri@yahoo.co.in" <veenukhatri@yahoo.co.in>

**Sent:** Wednesday, 20 September, 2023 at 06:02:54 pm IST

**Subject:** From Bombay High Court --- 20/09/2023 18:02:54

Sir/Madam,

Your case is filed in Bombay High Court on 20/09/2023 17:14:18, Case Stamp Number is WP/26299/2023 And CIN No is : HCBM020263072023

CASE NUMBER	WP(ST)/26299/2023 (OS)
PETITIONER	MAHARASHTRA THEATRES PRIVATE LIMITED
V/S	
RESPONDENT	THE STATE OF MAHARASHTRA

Note: This is Computer generated E-mail, please do not reply.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. OF 2023

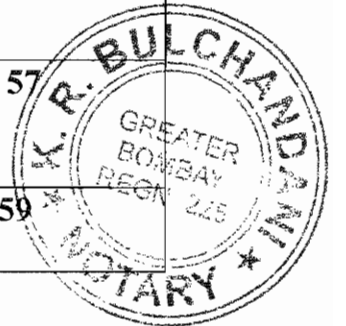
Maharashtra Theatres Private Limited & Anr Petitioners

VERSUS

The State of Maharashtra & Ors. Respondents

INDEX

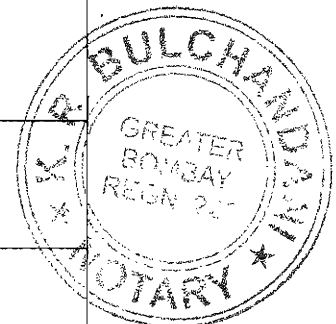
Sr. No	Particulars Volume I	Page Nos.
	Proforma	I - III
	Synopsis	A - E
1	Petition dated September 18, 2023	1 to 28
2	Vakalatnama dated September 18, 2023	29 -32
3	Memorandum of Registered Address	33
4	List of Documents	34
5	<u>Exhibit "A"</u> Copy of Order dated 31st March 2023	35 - 47
6	<u>Exhibit "B"</u> Copy of resolution dated 18.06.1969 (without enclosures)	48-49
7	<u>Exhibit "C"</u> Copy of order dated 11.09.1969 (without enclosures)	50
8	<u>Exhibit "D"</u> Copy of Memorandum dated 7.11.2001 in Marathi	51 - 52
9	<u>Exhibit "D-1"</u> Office translation of Memorandum dated 7.11.2001	53 - 57
10	<u>Exhibit "E"</u> Copy of Order 23.11.2001 in Marathi	58 -59



<b>Volume II</b>		
28	<b>Exhibit "O-1"</b> Office translation of order dated 13.07.2022 in English	187 - 275
29	<b>Exhibit- "P"</b> Copy of order dated 17.01.2023 in Marathi	276 -296
30	<b>Exhibit- "P-1"</b> Office translation of order dated 17.01.2023 in English	297 - 361
31	<b>Exhibit- "Q"</b> Copy of order/letter dated 7.11.2022 in Marathi	362 - 363
32	<b>Exhibit- "Q-1"</b> Office translation of order/letter dated 7.11.2022 in English	364- 367
33	<b>Exhibit- "R"</b> Copy of Mutation Entry in Marathi	368
34	<b>Exhibit- "R-1"</b> Office translation of Mutation Entry in English	369 - 370
35	<b>Exhibit- "S"</b> Acknowledged copy of letter dated 14.08.2023 (without Annexures)	371 -379
36	Affidavit in support of the Petition	380 -381
37	Advocate's Certificate	382



11	<b><u>Exhibit "E-1"</u></b> Office translation of Order 23.11.2001 in English	60 - 64
12	<b><u>EXHIBIT "F"</u></b> Copy of Order dated 12.12.2001 in Marathi	65 - 66
13	<b><u>Exhibit "F-1"</u></b> Office translation of Order 12.12.2001 in English	67 - 70
14	<b><u>Exhibit "G"</u></b> Copy of Lease Agreement dated 5.12.2005	71 - 84
15	<b><u>Exhibit "H"</u></b> Copy of Full Occupation Certificate	85
16	<b><u>Exhibit "I"</u></b> Copy of policy dated 11.01.2017 in Marathi	86 - 91
17	<b><u>Exhibit "I-1"</u></b> Office translation of policy dated 11.01.2017 in English	92 - 105
18	<b><u>Exhibit "J"</u></b> Copy of Notice dated 4.10.2018 in Marathi	106 - 108
19	<b><u>Exhibit "J-1"</u></b> Office Translation of Notice dated 4.10.2018 in English	109 - 112
20	<b><u>Exhibit "K"</u></b> Copy of Show Cause Notice dated 29.8.2019 in Marathi	113 -114
21	<b><u>Exhibit "K-1"</u></b> Office translation of Show Cause Notice dated 29.8.2019 in English	115 - 118
22	<b><u>Exhibit "L"</u></b> Copy of Notice dated 22.02.2021 in Marathi	119 -120
23	<b><u>Exhibit "L-1"</u></b> Office translation of Notice dated 22.02.2021 in English	121 - 124
24	<b><u>Exhibit "M"</u></b> Copy of fresh/amended Show Cause Notice dated 14.02.2022 in Marathi	125 - 128
25	<b><u>Exhibit "M-1"</u></b> Office translation of fresh/amended Show Cause Notice dated 14.02.2022 in English	129 -137
26	<b><u>Exhibit "N"</u></b> Copy of reply dated 25.04.2022 (without Exhibits)	138 -158
27	<b><u>Exhibit "O"</u></b> Copy of order dated 13.07.2022 in Marathi	159 -186





3

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

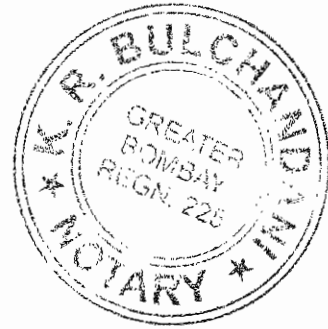
WRIT PETITION NO. OF 2023

Maharashtra Theatres Private Limited & Anr Petitioners

VERSUS

The State of Maharashtra & Ors. Respondents

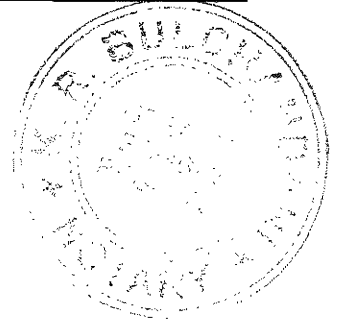
Office Notes: office Memoranda of Coram appearance Court's order or direction and prothonotary's order	Court's or Judge's orders
--	---------------------------



11

Office Notes: office Memoranda of  
Coram appearance Court's order or  
direction and prothonotary's order

Court's or Judge's orders



Office Notes: office Memoranda of  
Coram appearance Court's order or  
direction and prothonotary's order

Court's or Judge's orders



A

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. OF 2023

Maharashtra Theatres Private Limited & Anr Petitioners

VERSUS

The State of Maharashtra & Ors. Respondents

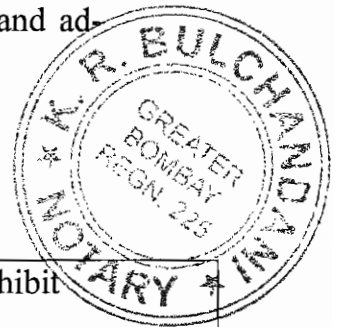
**SYNOPSIS**

**I. CHALLENGE IN BRIEF:**

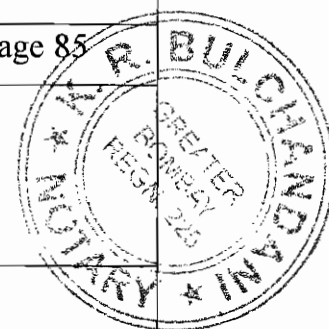
The Petitioners are challenging the order/letter dated 7.11.2022 (Exhibit Q to the Petition) and Mutation Entry No. 28 dated 30.03.2023 (Exhibit-R to the Petition) the deleting the name of MTPL as lessee from the revenue records i.e. Property Card in respect of the Leasehold Land and for reliefs as stated therein and for interim and ad-interim reliefs.

**II. LIST OF IMPORTANT DATES AND EVENTS**

Sr. No.	Dates	Particulars	Exhibit Page Nos.
1.	18.06.1969	Resolution of Respondent No.1, the Government of Maharashtra, Revenue and Forest Department granted lease of all that piece and parcel of land admeasuring 4515 sq. mt. bearing Survey No. 341-A, CTS No. 629/1252 of village Bandra (East) to MTPL for a	Ex-B pages 48-49

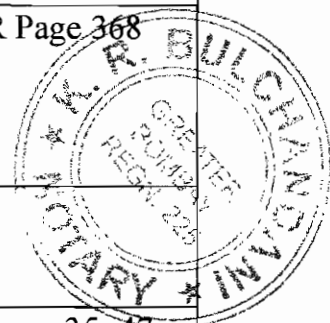


		period of 99 years against payment of rent, and subject to other terms and conditions set out therein (Leasehold Land)	
2.	11.09.1969	Formal Order passed by Additional Collector BSD	Ex C page 50
3.	17.11.2001	By a Memorandum Respondent No.1 permitted utilization of Leasehold Land not less than 10% FSI for cinema and upto 90% FSI for construction of offices as per Memorandum dated 7.11.2001	ExD Pages51-52
4.	23.11.2001	Order fixing norms of recovery of unearned income by transfer/renting	Ex E Pages 58-59
5.	12.12.2001	Respondent No. fixed annual rent	Ex F Pages 65-66
6.	5.12.2005	Respondent No.1 executed Lease Agreement	Ex G Pages71 - 84
7.	7.7.2006	MSGM issued Full Occupation Certificate	Ex H Page 85
8.	14.09.2012 onwards	Petitioner No.1 Mortgaged various portion of superstructure on leasehold Land to various banks	
9.	11.01.2017	Policy granting extension of time for building construction and completion in respect of Government Land	Ex I Pageg 92-105
10	4.10.2018	Notice issued contending that as completion no as per above policy premium as demanded to be paid	Ex J Pgs106 -108
11	2017-18	Banks initiated proceedings under SARFAESI	



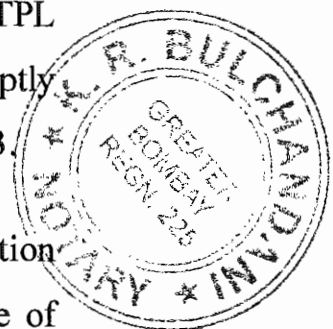
E

12	March 2019	Banks auctioned properties mortgaged to them	
13	29.8.2019	Show cause Notice contending that auction by Banks illegal	Ex K Pgs 113-114
14	22.02.2021	Another Notice issued making further demands	Ex L pgs 119-120
15	1.04.2022	Fresh/amended Show Cause Notice issued	ExM pages 125 to 128
16	25.04.2022	Reply filed by Petitioner No.1	Ex N pages 138 - 158
17	13.07.2022	Order directing Petitioner No.1 to pay amounts stated therein	Ex O pages 159 - 186
18	17.01.2023	Order passed in Appeal challenging order dated 13.07.2022 by partly allowing the Appeal	Ex P pgs 276 - 296
19	7.11.2022	Pending appeal challenging order dated 13.07.2022 Respondent No.2 directed Respondent Nos.4 and 5 to resume the Leasehold Land with structures unto the Government of Maharashtra	Ex Q Pgs 262 - 263
20	30.3.2023	Mutation entry No.28 whereby name of Government of Maharashtra is recorded in respect of the Leasehold Land	Ex R Page 368
21	2023	Revision filed by Petitioner No.1 aggrieved by order dated 17.01.2023	
22	31.03.2023	Petition filed by Axis Bank in NCLT admitted	ExA pgs 35 -47
23	14.08.2023	Letter by Petitioner No.1, inter alia, expressing to pay Rs.2,15,77,185/- in resolution plan	Ex S Pages 371 - 379



### III. POINTS TO BE URGED

- A. The order dated 23.11.2001 passed by Respondent No.1 (Exhibit-E to the Petition) is grossly arbitrary, excessive, oppressive and against the public policy as the same is not in terms of, and is instant contrary to the Lease conditions; We crave leave to challenge the said Order dated 23.11.2001 as and when so advised, by initiating appropriate proceedings for the purpose.
- B. Respondent Nos. 2, 4 & 5 ought to have appreciated the fact that at the time of deleting the name of MTPL from the revenue records i.e. Property Card in respect of the Leasehold Land, there was an order in place from Respondent No.3 cancelling the penalty amount imposed by Respondent No.2 on MTPL save & except penalty of Rs. 2,15,77,185/- towards extension of period for construction of building on the Leased Land, a copy of which order was duly served on Respondent No. 2 as is set out at the foot of the said order of Respondent No.3 (Exhibit-P to the Petition).
- C. Respondent No. 2 failed in its legal duty to forthwith terminate the process of deletion of the name of MTPL (Petitioner No.1) from the property register card promptly upon receipt of the appellate order of the Respondent No. 3.
- D. The Respondent Nos. 2, 4 and 5 cannot legally take any action qua the Leasehold Land/subject property to the prejudice of the Petitioners after commencement of CIRP proceedings of MTPL as the provisions of moratorium under Section 14 of IBC are triggered immediately upon commencement of CIRP



€

proceedings of MTPL. Thus, the said Respondent No.2 is not entitled to take any further action prejudicial to the Petitioners pursuant to his order dated 7.11.2022 (Exhibit-Q herewith);

- E. The Leasehold Land and the building standing thereon are the only meaningful assets of the Petitioner No.1 which is undergoing CIRP. The object of IBC is to maximum the value of assets inter alia by balancing the interest of all stakeholders. The action of Respondents in appropriation of Leasehold Land is manifestly arbitrary and contrary to law. Thus, restoration of Leasehold Land to Petitioner No.1 is necessary and desirable both on merit as well to facilitate the successful completion of CIRP of Petitioner No.1, failing which the said Petitioner shall face certain corporate death adversely affecting the likelihood of several people.
- F. The impugned order/letter dated 7.11.2022 and Mutation Entry dated 30.03.2023 are thus ultra vires and violative of Petitioners' constitutional and statutory rights and particularly constitutional rights under Articles 14, 19(1)(g) and 300A of the Constitution of India

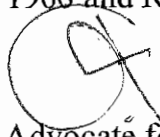
**IV. Authorities to be cited**

At the time of hearing

**V. Acts and Rules**

1. Constitution of India
2. Maharashtra Land Revenue Code, 1966 and Rules frame thereunder



  
Advocate for the Petitioners

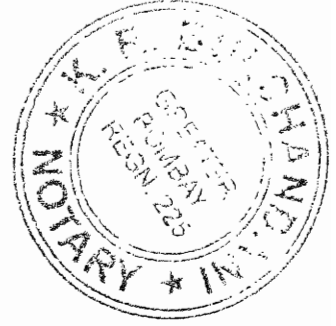


IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. OF 2023

**DIST: MUMBAI**



In the matter of Articles 226 & 227  
of the Constitution of India;

And

In the matter of Articles 14 and  
19(1(g) and 300 A of the  
Constitution of India;

And

In the matter of matter of  
Maharashtra Land Revenue Code,  
1966 and Rules framed thereunder;

And

In the matter of order dated  
7.11.2022 passed by the Collector,  
Mumbai Suburban District and the  
Mutation Entry No.28 dated

30.03.2023 recorded by City Survey

Officer, Bandra.

1. **Maharashtra Theatres Private Limited** )  
through its Resolution Professional having )  
registered address at RNA Corporate Park, )  
Next to Collector's Office, Kalanagar, )  
Bandra (East), Mumbai 400051 )
  
2. **Mr. Shailesh Desai** )  
Resolution Professional of )  
Maharashtra Theatres Private Limited, )  
C/o. Headway Resolution and Insolvency )  
Services Pvt. Ltd, 708, Raheja Centre, )  
7th Floor, Nariman Point, )  
Mumbai - 400 021 )

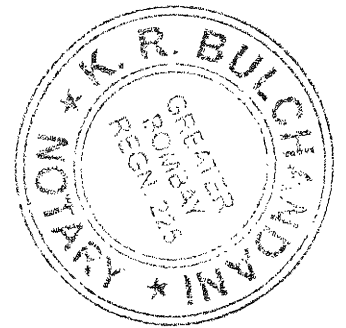
**Petitioners**

Versus

1. **The State of Maharashtra**, to be served )  
through Government Pleader, High Court, )  
(O.S.), Mumbai )
  
2. **The Collector, Mumbai Suburban** )



- District, Having its address at** )  
10<sup>th</sup> Floor, Administrative Building, )  
Government Colony, )  
Bandra (East), Mumbai 400051 )
- 3. Additional Commissioner, Konkan** )  
**Division, Mumbai,** )  
Having its registered address at Konkan )  
Division, Opp. Jehangir Art Gallery, Old )  
Secretariat, Fort, Mumbai 400 001 )
- 4. City Survey Officer, Bandra** )  
Having its address at )  
Municipal Motor Garage Compound, )  
Santacruz Bus Depot, S.V Road, )  
Santacruz (West), Mumbai 400054 )
- 5. Tahsildar, Andheri** )  
D. N. Nagar, Andheri (West), )  
Mumbai ) .... Respondents



TO

THE HON'BLE THE CHIEF JUSTICE AND HIS  
COMPANION JUDGES OF THE HIGH COURT

OF JUDICATURE AT BOMBAY

THE HUMBLE PETITION OF  
THE PETITIONERS ABOVE NAMED



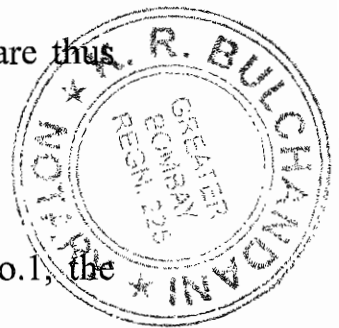
**MOST RESPECTFULLY SHEWETH**

1. Petitioner No. 2 is the Resolution Professional of Maharashtra Theatres Private Limited ('MTPL') i.e. Petitioner No.1 which was admitted to Corporate Insolvency Resolution Process ('CIRP') under Insolvency and Bankruptcy Code, 2016 ('IBC') vide order dated 31.03.2023 of Ld Adjudicating Authority, Mumbai in CP. No. 115(IB)-MB-V/2021, a copy of said order is enclosed and marked as **Exhibit-A** herewith.

2. MTPL (before commencement of its CIRP) had filed an appeal before Additional Commissioner, Konkan Division (Respondent No.3) against the order dated 13.07.2022 of Respondent No.2. By appellate order dated 17.01.2023 of Respondent No.3, bulk of the penalties imposed by Respondent No.2 were set aside/ remanded for reconsideration. By an order dated 07.11.2022, while the appeal before Respondent No.3 was pending, Respondent No.2 directed Respondent Nos. 4 & 5 to mutate cancellation of the lease of the subject property being Leasehold Land (defined hereinafter) and to

mutate the name of the State Government (Respondent No.1 herein) as the holder of the subject property. Respondent Nos. 4 & 5 carried out the directions of the Respondent No. 2 on or about 30.01.2023 and mutated the subject property to the name of Respondent No.1 by deleting the name of Petitioner No.1. CIRP proceedings of MTPL commenced by order dated 31.03.2023 as mentioned above. Aggrieved by the said action of Respondent Nos. 2, 4 & 5, the Petitioners have filed this Petition. Respondent No.3 has been impleaded herein only as a necessary and proper party and no relief is sought against the said Respondent. The Respondent No. 1 is the State of Maharashtra and Respondent Nos. 2 to 4 are officers and functionaries of Respondent No.1, inter-alia, discharging their duties and functions under the provisions of Maharashtra Land Revenue Code hereinafter referred to as the “said Act”. These authorities are required to act in accordance with the aforesaid Act, inter-alia, in respect of the matters pertaining to mutation entries under the said Act. The Respondents are instrumentalities of the State under the provisions of Article 12 of the Constitution of India and are thus amenable to the writ jurisdiction of this Hon’ble Court.

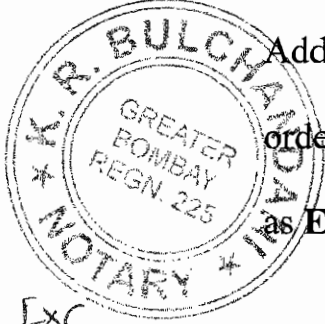
3. On or about 18.06.1969, vide a resolution, Respondent No.1, the Government of Maharashtra, Revenue and Forest Department



granted lease of all that piece and parcel of land admeasuring 4515 sq. mt. bearing Survey No. 341-A, CTS No. 629/1252 of village Bandra (East) to MTPL for a period of 99 years against payment of rent, and subject to other terms and conditions set out therein ('Leasehold Land/Lease'). A copy of said resolution dated 18.06.1969 (without enclosures) is enclosed and marked as **Exhibit-**

Ex B

**B** herewith. A formal order to this effect was passed by the Additional Collector, B.S.D. on or about 11.09.1969. A copy of said order dated 11.09.1969 (without enclosures) is enclosed and marked as **Exhibit-C** herewith.



Ex C

4. The usage of the said Leasehold Land was modified from time to time by diverse orders, last of which permitted utilization of not less than 10% FSI for cinema and upto 90% FSI for construction of offices as per Memorandum dated 7.11.2001 issued by Respondent No.1. A copy of said Memorandum in Marathi is enclosed and marked as **Exhibit-D** herewith and **Exhibit D-1** is the office translation of the same in English.

Ex D  
Ex D-1

5. Thereafter, on or about 23.11.2001 another order was passed by Respondent No.1 through the Revenue and Forest Department fixing norms of recovery of unearned income by transfer/renting. A copy of said order in Marathi is enclosed and marked as **Exhibit-E**

Ex-E

herewith and **Exhibit E-1** is the office translation of the same in English.

Ex-E1

6. By order dated 12.12.2001, the Respondent No.2 fixed an annual rent of Rs. 82,381/- (Rupees Eighty Two Thousand Three Hundred Eighty One only). Accordingly, Petitioner No.1 (MTPL) constructed a building comprising of basement + cinema theatre, bank, parking and office floors. A copy of said order in Marathi is enclosed and marked as **Exhibit-F** herewith and **Exhibit F-1** is the office translation of the same in English.

Ex F

Ex F 1

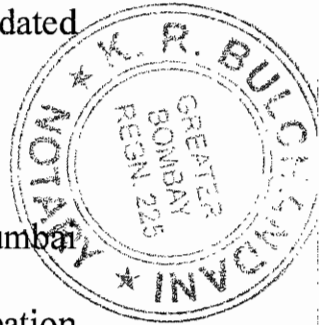
7. On 5.12.2005, Respondent No.1 executed the Lease Agreement in favour of Petitioner No.1 (MTPL). A copy of said agreement dated 5.12.2005 is enclosed and marked as **Exhibit-G** herewith.

Ex G

8. On 7.7.2006, Municipal Corporation of Greater Mumbai ('MCGM') being the planning authority issued a Full Occupation Certificate ('OC') bearing reference no. CE/6633/BS-II/AI for the new building on the said Leasehold Land. A copy of said Full OC is enclosed and marked as **Exhibit-H** herewith.

Ex H

9. On 14.9.2012, Petitioner No.1 (MTPL) as lessee through its then Director executed a Simple Mortgage Deed in favour of Dena Bank Ltd, now merged with Bank of Baroda, in respect of various



portions of the superstructure of the building constructed on the said Leasehold Land, which is now known as '**RNA Corporate Park**', being offered as a security towards the repayment of the loan availed by MTPL from the said bank. The said mortgage was duly registered in the office of Joint Sub Registrar, Andheri-1. The Petitioners crave leave of this Hon'ble Court to refer to and rely upon the same when produced.

10. MTPL from time to time created mortgages on various floors of the building as a security for repayment of loan availed by MTPL and/its group companies in favour of Dena Bank (Now Bank of Baroda) and Allahabad Bank (now Indian Bank). The said mortgages were duly registered with the concerned authorities. The Petitioners crave leave of this Hon'ble Court to refer to and rely upon the same when produced.

11. On 11.01.2017, Respondent No.1 framed a policy regarding granting extension of time for building construction & completion in respect of the Government lands which are leased to various parties by providing for charging a prescribed premium for the purpose. A copy of said policy in Marathi is enclosed and marked as **Exhibit-I** herewith and **Exhibit I-1** is the office translation of the same in English.



Ex (I)  
Ex -I-I



12. On 4.10.2018, the Respondent No.2 issued a notice of demand to MTPL, inter alia, contending that the construction was required to be completed within 2 (two) years i.e. by 11.12.2003, but was completed on 7.7.2006 as noticed from the Full OC and hence, according to the Government Policy dated 11.01.2017 (Exhibit-I herewith), the premium set out therein was demanded. A copy of said notice in Marathi is enclosed and marked as **Exhibit-J** herewith and **Exhibit J-1** is the office translation of the same in English.

13. By diverse agreements of leave and license, various portion/floors of the building were given on leave and license basis to different parties by MTPL. The Petitioners crave leave of this Hon'ble Court to refer to and rely upon the same when produced.

14. Meanwhile, in or about year 2017-2018 the said Allahabad Bank (now Indian Bank) and Dena Bank (now Bank of Baroda) (hereinafter referred to as Indian Bank and Bank of Baroda respectively) initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act') in respect of their mortgaged security being four separate units on four separate floors on account

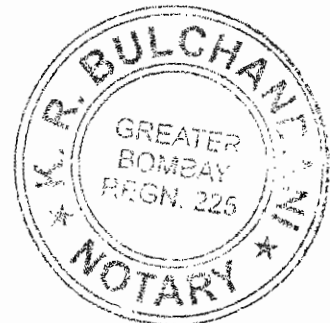


of alleged default in repayment of the loan/s facilities availed by MTPL.

15. Pursuant thereto, the said Indian Bank and Bank of Baroda auctioned the units held as security by them respectively and issued four Sale Certificates respectively under rule 9 (6) of the Security Interest (Enforcement) Rules, 2002 in respect of the aforesaid four separate units on four separate floors dated 30.03.2019 & 18.03.2019 respectively. Incidentally, the said units were acquired by the same parties who were then occupying the respective units as licensees.

16. On 29.8.2019, the Respondent No.2 issued show-cause notice *inter-alia* to MTPL contending that the e-auctions conducted by the said Banks were illegal as the same were in violation of lease deed and various memoranda and fixed a hearing on 19.09.2019 at 11.30 a.m. A copy of said notice in Marathi is enclosed and marked as **Exhibit-K** herewith and **Exhibit K-1** is the office translation of the same in English.

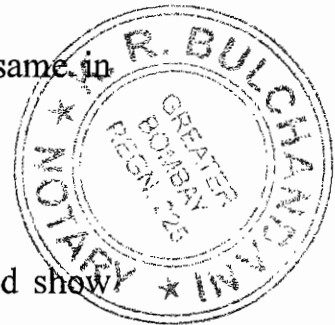
17. However, the hearing could not take place, not for any reason attributable to the Petitioner No.1.



Ex K  
Ex K-1

18. On 22.02.2021, the Respondent No.2 issued another notice to MTPL fixing final hearing on 1.03.2021. In this notice, apart from a sum of Rs. 1,07,88,600/- (Rupees One Crore Seven Lakhs Eighty-Eight Thousand Six Hundred only) which was earlier demanded vide letter dated 4.10.2018 (Exhibit-J herewith) for not completing the construction within time, a further sum of Rs. 1,28,91,000/- (Rupees One Crore Twenty Eight Lakhs Ninety-One Thousand only) was also demanded being 1% of the loan amount of Rs. 1,28,91,00,000 (Rupees One Twenty Eight Crores Ninety One Lakhs only) on the ground that the mortgage in favour of Bank of Baroda (erstwhile Dena Bank) was done without permission. On the same day, a separate notice was issued by the Respondent No. 2 to Dena Bank (now Bank of Baroda) demanding a sum of Rs. 5,04,11,501/- (Rupees Five Crores Four Lakhs Eleven Thousand Five Hundred One Only) towards the transfer premium. A copy of said notice in Marathi is enclosed and marked as **Exhibit-L** herewith and **Exhibit L-1** is the office translation of the same in English.

19. On 1.04.2022, the Respondent No.2 issued a fresh/amended show cause notice inter alia to Petitioner No.1 alleging various irregularities *inter-alia* (i) not completing the construction within 2

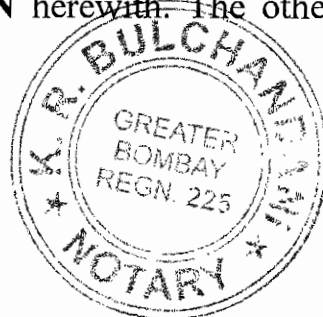


(two) years from 15.11.2001 (ii) Non-payment of the lease rent to the Government, (iii) failure of the Banks and financial institutions to comply with the government memorandum dated 4.09.1997 and the order of the Collector dated 1.01.1998 whereby the Government had a first charge on entire outstanding lease rent and 50% unearned income in case of sale of property by foreclosure of the mortgage and of the failure of the Banks to give an advance notice of 90 (ninety) days to the Government of Maharashtra before foreclosing the loan and (iv) creation of mortgages of the basement, 2nd , 4th and 5th floor allegedly unauthorizedly and subsequent sale of the said floors in the auction. The hearing was fixed on 7.04.2022. The said notice was also issued to Dena Bank (now Bank of Baroda), Allahabad Bank (Now Indian Bank) & the buyers of the various floors. A copy of said notice in Marathi is enclosed and marked as **Exhibit-M** herewith and **Exhibit M-1** is the office translation of the same in English.

Ex - M  
Ex - M-1

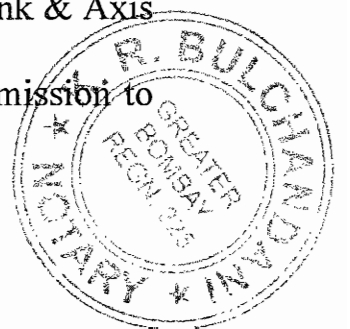
20. On 25.04.2022, MTPL submitted its detailed reply to the fresh/amended show-cause notice dated 1.04.2022 (Exhibit-M herewith). A copy of said reply dated 25.04.2022 (without Exhibits) is enclosed and marked as **Exhibit-N** herewith. The other parties

Ex - N



also submitted their respective replies. On 23.05.2022, Respondent No. 2 upon hearing all the parties reserved the matter for final order.

21. Vide order dated 13.07.2022 bearing No. C/Desk-3D/L-235/736/202 passed by the Respondent No. 2, MTPL was directed to pay within 30 days a sum of (i) Rs.2,15,77,185/-(Rupees Two Crores Fifteen Lakhs Seventy-Seven Thousand One Hundred Eighty-Five Only) towards the alleged premium for extension of time for completion of construction; (ii) Rs. 7,10,78,279/- (Rupees Seven Crores Ten Lakhs Seventy-Eight Thousand Two Hundred Seventy-Nine only) towards the purported license fee/premium for sub-letting the several portion of the property from 1.1.2007 to 6.7.2022; (iii) Rs. 58,11,65,226/- (Rupees Fifty-Eight Crores Eleven Lakhs Sixty-Five Thousand and Two Hundred Twenty-Six Only) towards alleged amount of 50% of unearned income, failing which the said Leasehold Land with building constructed thereon to be resumed in the Government of Maharashtra; (iv) direction to Dena Bank (now Bank of Baroda) & Allahabad Bank (now Indian Bank) to provide loan details along with documents to be submitted to the Collector office and for future sale, permission to be obtained from the Collector office; (v) information from Canara Bank & Axis Bank about loan amount called for & for future sale permission to



be obtained from the Collector's office; (vi) once amounts mentioned at sr. no. (i) to (iii) are paid by MTPL, further action to be taken on applications filed by the auction buyers and what lease right to the given to the buyers of the government land, the same to be decided by the government; & (vii) direction to Tahsildar, Andheri & CTS Officer, Bandra, if the amounts mentioned at sr. no. (i) to (iii) are not paid by MTPL, as per clause no. 20 of lease agreement, the land to be vested unto the government of Maharashtra. A copy of said order in Marathi is enclosed and marked as **Exhibit-O** herewith and **Exhibit O-1** is the office translation of the same in English.

Ex-O  
Ex-O-1

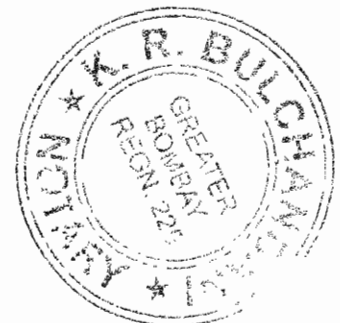
22. The said order dated 13.07.2022 (Exhibit-O herewith) of Respondent No. 2 was challenged in appeal by MTPL before the Hon'ble Additional Commissioner, Konkan Division, the Respondent No. 3 herein. After completion of pleading and after hearing all concerned parties, vide order dated 17.01.2023, the Respondent No.3 *inter-alia* passed the following order:

- i. *The Appeal was partially allowed.*
- ii. *Collector's order dated 13.7.2022 was partially modified.*



- iii. MTPL was directed to pay a sum of Rs. 2,15,77,185/- to Government towards extension of period for construction of building on the leased property.
- iv. Issues number 2 to 7 of the order dated 13.7.2022 of the Collector are being cancelled.
- v. The Collector was directed to undertake re-trial of the issue relating to payment of a sum of Rs.7,10,78,279/- to the Government towards license fee earned by MTPL on account of giving various floors of the super structure on leave and license on whether the Government Resolution dated 7.7.2019 is applicable to MTPL and for taking an appropriate decision be taken on merits/as per rules.
- vi. The mortgagee banks who had auctioned various floors and the respective auction purchasers were directed to pay to the Government a sum of Rs. 58,11,65,226/- towards 50% unearned income generated from auction of the floors in question as the property was auctioned on "as is where is" basis.

A copy of said order dated 17.01.2023 in Marathi is enclosed and marked as **Exhibit- P** herewith and **Exhibit P-1** is the office translation of the same in English.



23. The Petitioners state that pending the appeal filed by MTPL against order dated 13.07.2022, the Respondent No.2 vide order/letter dated 7.11.2022 directed Tahsildar, Andheri (Respondent No.5 herein) and CTS Officer, Bandra (Respondent No.4 herein) to resume the said Leasehold Land with building constructed thereon unto the Government of Maharashtra. A copy of said order in Marathi is enclosed and marked as **Exhibit-Q** herewith and **Exhibit Q-1** is the office translation of the same in English.

Ex Q  
Ex Q-1

24. In spite of the above order dated 17.01.2023 of the Respondent No.3 (Additional Commissioner Konkan Division, Mumbai) at Exhibit P hereto, the Respondent No. 4 (CTS Officer, Bandra) has passed and recorded a mutation on 30.01.2023 vide Mutation Entry No. 28, whereby the name of MTPL was deleted as lessee of said Leasehold Land and name of the Government of Maharashtra (Respondent No.1) recorded as the holder on the Property Card. A copy of said Mutation Entry in Marathi is enclosed and marked as **Exhibit-R** herewith and **Exhibit R-1** is the office translation of the same in English.

Ex R  
Ex R-1

25. Aggrieved by order 17.01.2023 of the Respondent No.3 (Additional Commissioner Konkan Division, Mumbai) at Exhibit P hereto, the auction purchasers have filed a Revision Application before the

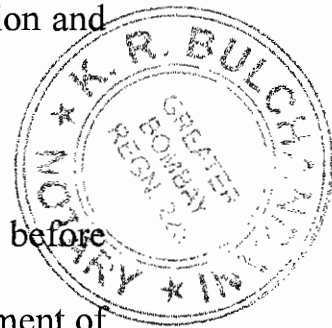




Hon'ble Revenue Minister, Ministry of Revenue, Government of Maharashtra. The same is pending for hearing and final disposal. The Petitioners have been impleaded in the said proceedings as Respondent No. 3. The Petitioners crave leave to refer to the said Revision Application and other relevant papers and proceedings when produced.

26. One of the mortgagee bank i.e. Indian Bank has also filed a Revision Application before the Hon'ble Revenue Minister, Ministry of Revenue, Government of Maharashtra challenging the order dated 17.01.2023 of the Respondent No.3 (Additional Commissioner Konkan Division, Mumbai) at Exhibit P hereto inter alia on the ground that the issue of 50% unearned income is applicable only in the event if the sale of land takes place and not otherwise i.e. not applicable in case of sale/transfer of structure. The same is pending for hearing and final disposal. MTPL has been impleaded in the said proceedings as Respondent No. 3. The Petitioners crave leave to refer to the said Revision Application and other relevant papers and proceedings when produced.

27. The Petitioners state that pending the Revision Application before the Hon'ble Revenue Minister, Ministry of Revenue, Government of Maharashtra, challenging the Order dated 17.01.2023 (Exhibit P),



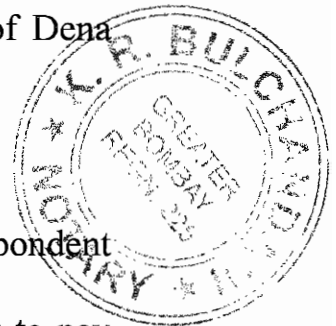
by an order dated 31.03.2023 in Petition filed by Axis Bank Limited under Section 7 of the Insolvency & Bankruptcy Code, 2016 bearing number CP No. 115/(IB)-MB-V/2021 against MTPL (Petitioner No.1) was admitted before the Hon'ble NCLT, Mumbai and Corporate Insolvency Resolution Process has been commenced vide the said Order dated 31.3.2023 (Exhibit-A herewith). Accordingly, the Resolution Professional (Petitioner No.2) is appointed by the NCLT, Mumbai for MTPL.

28. Furthermore, vide the commencement of CIRP, the Corporate Debtor namely MTPL, is protected by a Moratorium as per Section 14 of Insolvency & Bankruptcy Code, 2016, prohibiting the institution of suits or continuation of pending suits or proceedings against MTPL including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority as provided in paragraph "d" on page 11 of the said order dated 31.03.2023 (Exhibit-A herewith) of the NCLT, Mumbai. Thus, while the aforesaid mutation entry dated 30.01.2023 (Exhibit-R herewith) is liable to be reversed, pending its reversal, no further action pursuant to the said mutation entry can be taken by the Respondent No.2.



29. In the above facts and circumstances, it is submitted that as on date MTPL's confirmed liability is restricted upto Rs.2,15,77,185/- towards penalty for extension of period for construction of building on the Leasehold Land as per order dated 17.01.2023 (Exhibit-P herewith) of the Respondent No.3 (Additional Commissioner Konkan Division, Mumbai). As regards the other penalties imposed by the said order dated 13.07.2022 (Exhibit-O herewith) of the Respondent No. 2 (Collector), nothing stands against MTPL. The penalty for Rs. 7,10,78,279/- has been quashed by the Respondent No. 3 (Additional Commissioner Konkan Division, Mumbai) and remanded to Respondent No.2 for retrial on merit as per law. The penalty of Rs. 58,11,65,226/- has been cast upon the auction buyers who have filed revision applications before the Minister as stated above. Likewise the lenders who have sold several floors constructed the Leased Land have been made liable for the above penalties. One of the lenders i.e. Indian Bank (successor of Dena Bank) has also preferred a similar revision application.

30. The Petitioner No.2 vide letter dated 14.08.2023 to Respondent No.2, narrated the above facts and expressed its willingness to pay the said Rs.2,15,77,185/- by putting the said amount in resolution plan, being the only liability cast upon the Corporate Debtor i.e.



MTPL in compliance of order dated 13.07.2022 (Exhibit-O herewith) of the Respondent No.2 (Collector) & upheld by order dated 17.01.2023 (Exhibit-P herewith) of the Respondent No. 3 (Additional Commissioner Konkan Division, Mumbai) and requested to cancel the Mutation No. 28 dated 30.01.2023 (Exhibit-R herewith) and reinstate name of MTPL as Lessee "Pattedar" with immediate effect in revenue record i.e. Property Card and called for a challan for a sum of Rs. 2,15,77,185/- for forthwith payment thereof. The said letter was served on the Respondent No.2 on 17.08.2023. An acknowledged copy of said letter dated 14.08.2023 is enclosed and marked as **Exhibit-S** herewith (without Annexures).

Ex 3'

31. No response/reply is received by the Petitioners from the Respondent No.2 on the said letter dated 14.08.2023 (Exhibit- S) till date.
32. Under the circumstances, Petitioners are left with no other alternate or efficacious remedy apart from approaching this Hon'ble Court under its writ jurisdiction in order to seek reinstatement of name of MTPL as Lessee "Pattedar" with immediate effect in revenue record i.e. Property Card. The present Writ Petition is being filed on the following grounds amongst others which are made without prejudice to each another:



## GROUNDS

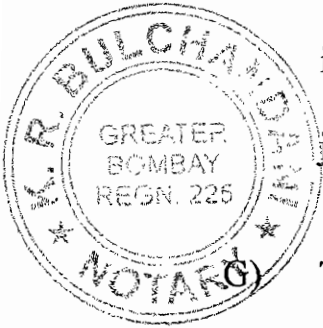
- A) That Respondent Nos.2, 4 & 5 mentioned herein have acted contrary to the principles of natural justice, fair play and public policy;
- B) That Respondent Nos.2, 4 & 5 have acted arbitrarily, in excess of legal authority, patently illegal and in colorable exercise of powers in deleting the name of MTPL as lessee from the revenue records i.e. Property Card in respect of the Leasehold Land;
- C) THAT the order dated 23.11.2001 passed by Respondent No.1 (Exhibit-E herewith) is grossly arbitrary, excessive, oppressive and against the public policy as the same is not in terms of, and is instant contrary to the Lease conditions; We crave leave to challenge the said Order dated 23.11.2001 as and when so advised, by initiating appropriate proceedings for the purpose;
- D) That Respondent Nos. 2, 4 & 5 ought to have appreciated the fact that at the time of deleting the name of MTPL from the revenue records i.e. Property Card in respect of the Leasehold Land, there was an order in place from Respondent No.3



cancelling the penalty amount imposed by Respondent No.2 on MTPL save & except penalty of Rs. 2,15,77,185/- towards extension of period for construction of building on the Leased Land, a copy of which order was duly served on Respondent No. 2 as is set out at the foot of the said order of Respondent No.3 (Exhibit-P herewith);

E) That Respondent Nos.2, 4 & 5 are bound to act in accordance with law and to discharge their obligations as laid down in the statute rather than acting to the contrary;

F) That Respondent Nos.2, 4 & 5 are required and obliged to act in accordance with law having regard to principles of fair justice and good conscience;

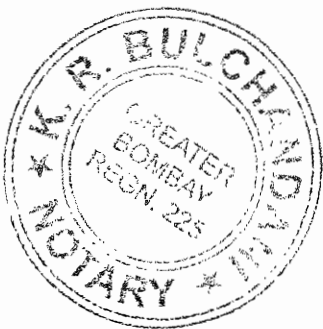


That Respondent No. 2 failed in its legal duty to forthwith terminate the process of deletion of the name of MTPL (Petitioner No.1) from the property register card promptly upon receipt of the appellate order of the Respondent No. 3;

H) That the Respondent Nos. 2, 4 and 5 cannot legally take any action qua the Leasehold Land/subject property to the prejudice of the Petitioners after commencement of CIRP proceedings of MTPL as the provisions of moratorium under

Section 14 of IBC are triggered immediately upon commencement of CIRP proceedings of MTPL. Thus, the said Respondent No.2 is not entitled to take any further action prejudicial to the Petitioners pursuant to his order dated 7.11.2022 (Exhibit-Q herewith);

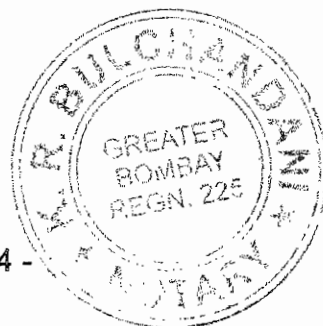
- I) The Leasehold Land and the building standing thereon are the only meaningful assets of the Petitioner No.1 which is undergoing CIRP. The object of IBC is to maximum the value of assets inter alia by balancing the interest of all stakeholders. The action of Respondents in appropriation of Leasehold Land is manifestly arbitrary and contrary to law. Thus, restoration of Leasehold Land to Petitioner No.1 is necessary and desirable both on merit as well to facilitate the successful completion of CIRP of Petitioner No.1, failing which the said Petitioner shall face certain corporate death adversely affecting the likelihood of several people. The CIRP would not only provide recovery of legitimate dues of Respondent No.2 but also of the public financial institutions, which have lend public money, as well as other government and non-government operational creditors of Petitioner No.1;



- J) The Petitioners have represented to the Respondent No.2 against its arbitrary action and have specifically informed the said Respondent of the factum of Petitioner No.1 being under CIRP but no corrective action has been taken by the said Respondent; and
- K) The Petitioners submit that the impugned order/letter dated 7.11.2022 and Mutation Entry dated 30.03.2023 are thus ultra vires and violative of Petitioners' constitutional and statutory rights and particularly constitutional rights under Articles 14, 19(1)(g) and 300A of the Constitution of India.

The Petitioners crave leave to add, amend and modify the above grounds as may be required.

33. The Petitioners have no other adequate and/or equally efficacious remedy available to it, save and except by way of the present Writ Petition.
34. The Petition is signed by the Petitioners and verified by Petitioner No.2 for self and on behalf of Petitioner No.1, being the Resolution Professional of Petitioner No.1





35. The Petitioners have not presently filed any other Petition either in this Court or the Supreme Court of India in respect of the subject matter of this Petition.

36. The said Leasehold Land is within the jurisdiction of this Hon'ble Court. The Respondents are having their addresses based in Mumbai within the jurisdiction of the Hon'ble Court. The entire cause of action has arisen within the jurisdiction of this Hon'ble Court. Therefore, this Hon'ble Court has jurisdiction to entertain, try and dispose of the present Petition.

37. No part of this Petition is barred by the law of limitation.

38. The Petitioners have paid fixed Court fees of Rs.500/- on this Petition.

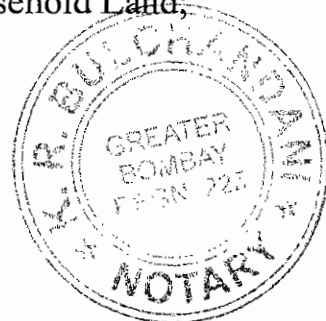
39. The Petitioners crave leave to file a separate Compilation of Documents so as to refer to and rely upon at the time of hearing of the present Writ Petition.

The Petitioners therefore pray:

- a. that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India calling for the records and proceedings pertaining to the order/letter dated

7.11.2022 (Exhibit Q to the Petition) passed by Respondent No.2 and (ii) the Mutation Entry No. 28 dated 30.03.2023 (Exhibit-R herewith) and after examining the validity, legality and propriety thereof, the same be quashed and set aside;

- b. This Hon'ble Court be pleased to issue a writ of Mandamus or writ in the nature of Mandamus or any other appropriate writ, or direction under Article 226 of the Constitution of India directing (i) the Respondent No.2 to recall the letter/order dated 7.11.2022 (Exhibit Q to the Petition) and (ii) Respondent No.3 to cancel the Mutation Entry No. 28 dated 30.03.2023 (Exhibit-R herewith) with immediate effect appearing on revenue record i.e. Property Card in respect of the Leasehold Land;
- c. that this Hon'ble Court be pleased to issue a Writ of Mandamus or any other writ of similar nature with a direction to Respondent No. 2, Respondent No.4 & Respondent No.5 to reinstate name of MTPL (Petitioner No.1) as Lessee "Pattedar" with immediate effect in revenue record i.e. Property Card in respect of the Leasehold Land;

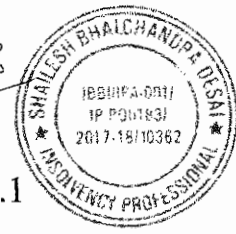


- d. that this Hon'ble Court be pleased to direct Respondent No. 2 to accept a sum of Rs. 2,15,77,185/- towards penalty for extension of period for construction of building on the Leasehold Land as per order dated 17.01.2023 (Exhibit-P herewith) of the Respondent No.3 (Additional Commissioner Konkan Division, Mumbai) by putting the said amount in resolution plan of Petitioner No. 1;
- e. pending the hearing and final disposal of the present Petition this Hon'ble Court be pleased to direct the Respondents and their Revenue Officers to maintain status quo in respect of the Leasehold Land and building standing thereon and not to create any further third party interest in respect of the Leasehold Land and/ or building standing thereon;
- f. for interim & ad-interim reliefs in terms of prayer clauses (d) to (e) above be granted;
- g. for costs of this Petition; and
- h. for such further and other reliefs as this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the present case.

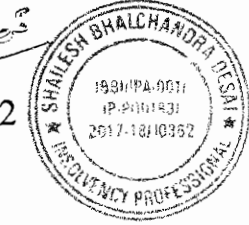


Veenu Khatri  
Advocate for the Petitioners

Petitioner No.1



Petitioner No.2



VERIFICATION

I, Mr. Shailesh Desai, the Petitioner No.2 herein and Resolution Professional of Maharashtra Theatres Private Limited having address at C/o. Headway Resolution and Insolvency Services Pvt Ltd, 708, Raheja Centre, 7th Floor, Nariman Point, Mumbai-400 021, do hereby solemnly declare that what is stated paragraphs nos. 1, 27, 28, 33 to 35 of the foregoing Petition is true to my own knowledge and what is stated in paragraphs nos. 2 to 26, 29 to 32, 36 to 39 of the foregoing Petition is stated from the records maintained by Petitioner No.1 and on information & belief and I believe the same to be true.

Solemnly declared at Mumbai ]

this <sup>18</sup> day of September 2023 ]

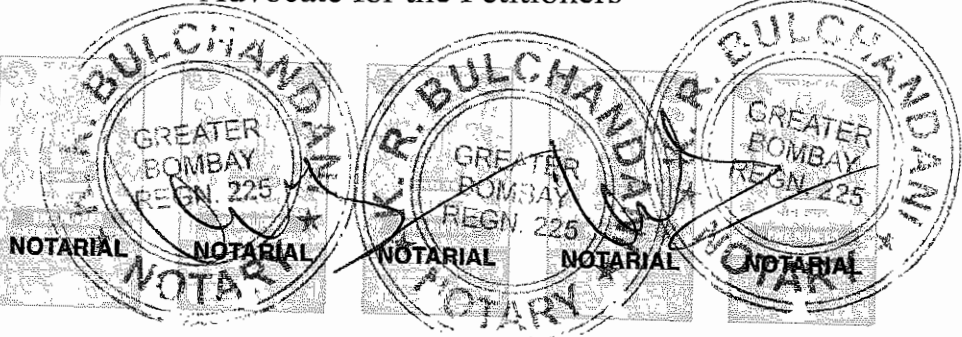


Before me,



Veenu Khatri  
Advocate for the Petitioners

Notarial Register
Sr. No.: 1748/2023
Date: 18/09/2023



18/09/2023  
K.R. BULCHANDANI  
Advocate, & Solicitor  
Notary, Greater Bombay  
709, 7<sup>th</sup> Floor, Raheja Centre,  
Free Press Journal Marg,  
Nariman Point, Mumbai - 400 021.  
Regn. No. 225

I/We am/are not a member of the Advocates' Welfare Fund. Hence stamp of Rs.2/- is not affixed.

Advocate

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. OF 2023

In the matter of Articles 226 & 227  
of the Constitution of India;

And

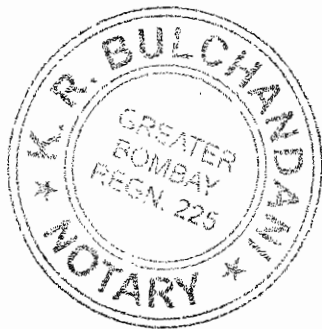
In the matter of Articles 14 and  
19(1(g) and 300 A of the  
Constitution of India;

And

In the matter of matter of  
Maharashtra Land Revenue Code,  
1966 and Rules framed thereunder;

And

In the matter of order dated  
7.11.2022 passed by the Collector,  
Mumbai Suburban District and the  
Mutation Entry No.28 dated

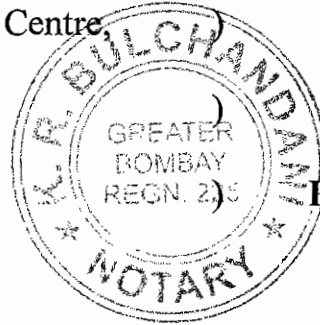


30.03.2023 recorded by City Survey

Officer, Bandra.

1. **Maharashtra Theatres Private Limited** )  
through its Resolution Professional having )  
registered address at RNA Corporate Park, )  
Next to Collector's Office, Kalanagar, )  
Bandra (East), Mumbai 400051 )

2. **Mr. Shailesh Desai** )  
Resolution Professional of )  
Maharashtra Theatres Private Limited, )  
C/o. Headway Resolution and Insolvency )  
Services Pvt. Ltd, 708, Raheja Centre )  
7th Floor, Nariman Point, )  
Mumbai - 400 021 )



**Petitioners**

Versus

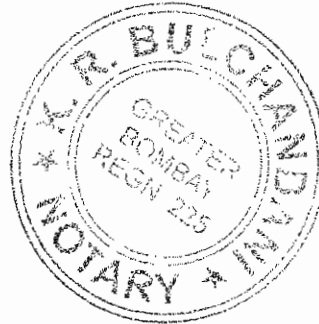
1. **The State of Maharashtra**, to be served )  
through Government Pleader, High Court, )  
(O.S.), Mumbai )  
2. **The Collector, Mumbai Suburban** )  
**District**, Having its address at )  
10<sup>th</sup> Floor, Administrative Building, )

- Government Colony, )  
Bandra (East), Mumbai 400051 )
3. **Additional Commissioner, Konkan** )  
**Division, Mumbai,** )  
Having its registered address at Konkan )  
Division, Opp. Jehangir Art Gallery, Old )  
Secretariat, Fort, Mumbai 400 001 )
4. **City Survey Officer, Bandra** )  
Having its address at )  
Municipal Motor Garage Compound, )  
Santacruz Bus Depot, S.V Road, )  
Santacruz (West), Mumbai 400054 )
5. **Tahsildar, Andheri** )  
D. N. Nagar, Andheri (West), )  
Mumbai ) .... **Respondents**

To,

The Prothonotary & Senior Master,  
High Court, Original Side,  
Bombay.

Sir,



We, (1) Maharashtra Theatres Private Limited and (2) Mr. Shailesh Desai, the Petitioners abovenamed, do hereby appoint Ms. Veenu Khatri,

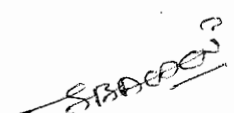

Advocate, High Court, Bombay, to act, appear and plead for us in the above matter.

In witness whereof, we have set and subscribed our hands to this writing today, at Mumbai on this day 18<sup>th</sup> of September, 2023.


Accepted:



Venu C. Khatri  
Advocate for the Petitioners,  
Block No.76, Room No.1,  
Malabar Hill Road,  
Mulund Colony,  
Mumbai – 400 082.  
Email Id- [veenukhatri@yahoo.oc.in](mailto:veenukhatri@yahoo.oc.in)  
Cell: 9820056118  
High Court O.S Registration No. 4773  
Advocate Code: **29618**  
Bar Council Registration :MAH/1354/1991

(Petitioner No.1)

(Petitioner No.2)





IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. OF 2023

Maharashtra Theatres Private Limited & Anr Petitioners

VERSUS

The State of Maharashtra & Ors. Respondents

MEMORANDUM OF REGISTERED ADDRESS OF THE  
PETITIONERS

Maharashtra Theatres Private Limited

Mr. Shailesh Desai

c/o Veenu Khatri  
Advocate for the Petitioners  
Block No.76, Room No.1  
Malabar Hill Road  
Mulund Colony  
Bombay 400082.



A handwritten signature in black ink, consisting of a stylized 'A' followed by a flourish.

Advocate for the Petitioners

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. OF 2023

Maharashtra Theatres Private Limited & Anr Petitioners

VERSUS

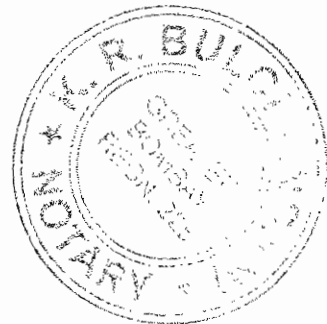
The State of Maharashtra & Ors. Respondents

**LIST OF DOCUMENTS ON WHICH THE PETITIONERS WILL  
RELY**

1. All Exhibits annexed to the Petition
2. Documents referred to and relied upon in the Petition
3. Correspondence prior to the Petition
4. Any other document with the permission of this Honourable Court



Advocate for the Petitioners



**NATIONAL COMPANY LAW TRIBUNAL  
COURT NO. V, MUMBAI BENCH**

**CP No. 115/(IB)-MB-V/2021**

Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

*In the matter of*

**Axis Bank Limited**

Axis house, 7th Floor, C-2, Wadia International Centre, Pandurang Bhudhkar Marg, Worli, Mumbai-400025.

...Petitioner/ Financial Creditor

Vs.

**Maharashtra Theatres Private Limited**

RNA Corporate Park, 3rd Floor, Next to Collector's Office, Bandra (East), Mumbai-400051, Maharashtra.

...Corporate Debtor

**Date of the Order: 31.03.2023**



**Coram:**

Hon'ble Shri Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

**Appearances (via Video Conferencing):**

**For the Petitioner:**

Mr. Shyam Kapadia, Advocate a/w Ms. Savani Gupte, Mr. Lalit Munshi and Ms. Sailee Dhayalkar i/b Samvad partners.



**For the Corporate Debtor:**

Mr. Pulkit Sharma, Advocate i/b G. Aniruth Purusothaman.

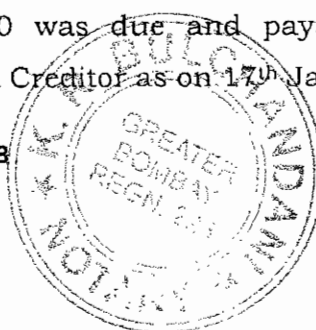
*Per: Anuradha Sanjay Bhatia, Member (Technical)*

**ORDER**

1. This Company Petition is filed by **Axis Bank Limited** (hereinafter called "**Petitioner**") seeking to initiate Corporate Insolvency Resolution Process (**CIRP**) against **Maharashtra Theatres Private Limited** (hereinafter called "**Corporate Debtor**") alleging that the Corporate Debtor committed default in the repayment of loan to the extent of Rs. 55,75,27,571/- including interest. This Petition has been filed by invoking the provisions of Section 7 Insolvency and Bankruptcy Code, 2016 (hereinafter called "**Code**") read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The instant Petition arises out of the defaults of the Corporate Debtor, under certain facilities advanced to it, by the Petitioner, from the years 2010 to 2016. A brief outline of these facilities is as under:
  - Term Loan Facility with Account Number 910060036954809 for an amount of INR 3,18,00,000/- sanctioned vide (i) Sanction Letter dated 5th June 2010 (ii) Revised Sanction Letter dated 22nd September 2010 and (iii) Loan Agreement dated 29th September 2010.
  - Overdraft Facility with Account Number 913030035125114 for an amount of 10,00,00,000/- sanctioned vide (i) Sanction Letter dated 26th July 2013 (ii) Renewal of Sanction Letter, dated 2nd March 2015 and (iii) Letter of Arrangement dated 27th July 2013 for INR 10,00,00,000/-.
  - Term Loan Facility with Account Number 913060035171516 for an amount of INR 37,75,00,000/- sanctioned vide (i) Sanction Letter dated 26th July 2013 (ii) Renewal of Sanction Letter, dated 2nd March 2015 and (iii) Term Loan Agreement dated 27th July 2013.



- Term Loan Facility with Account Number 96060017908184 for an amount of INR 3,15,00,000/- sanctioned vide (i) Sanction Letter dated 28th December 2015 (ii) Sanction Letter dated 29th March 2016 revalidating the loan and (iii) Term Loan Agreement dated 28th March 2016.
  - Term Loan Facility with Account Number 916060017908838 for an amount of INR 10,50,00,000/- sanctioned vide (i) Sanction Letter dated 28th December 2015 (ii) Sanction Letter dated 29th March 2016 revalidating the loan. (iii) Term Loan Agreement dated 28th March 2016.
3. The total amount sanctioned vide the Facilities was INR 64,58,00,000/- and the Facilities were to be repaid in terms of the schedule of repayments of each of the Facilities. The Facilities were also secured by various Security Documents, as elaborated in Form 1, Part V of the Petition. The Corporate Debtor had from 2012 till 2018 furnished several "**Acknowledgments of Debt**", *inter alia* confirming the amounts which were payable to the Financial Creditor, under the Facilities, and its liability to repay the said amount. These Acknowledgments of Debt are as under:
- (i) Acknowledgement of Debt, dated 31<sup>st</sup> December 2009, confirming that an amount of INR 20,78,11,103.84 was due and payable by the Corporate Debtor to the Financial Creditor as on 31<sup>st</sup> December 2009.
  - (ii) Acknowledgment of Debt, dated 12<sup>th</sup> December 2012, confirming that an amount of INR 20,44,65,181.89 was due and payable by the Corporate Debtor to the Financial Creditor as on 5th December 2012.
  - (iii) Acknowledgement of Debt, dated 22<sup>nd</sup> April 2015, confirming that an amount of INR 59,90,75,972.24 was due and payable by the Corporate Debtor to the Financial Creditor as on 12<sup>th</sup> January 2015.
  - (iv) Acknowledgment of Debt, dated 11<sup>th</sup> April 2018, confirming that an amount of INR 56,26,51,028.30 was due and payable by the Corporate Debtor to the Financial Creditor as on 17<sup>th</sup> January 2018.



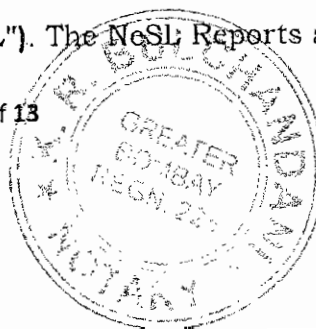
4. In the year 2018, the Corporate Debtor defaulted in repayment of the Facilities. Accordingly, on 29<sup>th</sup> January 2019, the entire account of the Corporate Debtor with the Financial Creditor came to be classified as a non-performing asset i.e., NPA. Thereafter, the following correspondence ensued between the Corporate Debtor and the Financial Creditor, which *inter alia* shows that (i) **the NPA Date / Date of Default of 29<sup>th</sup> January 2019** was undisputed and (ii) the Debt itself was acknowledged and admitted and was never disputed:

a. **Recall Notice** dated 11<sup>th</sup> July 2019 issued by the Financial Creditor to the Corporate Debtor calling upon the latter to pay a sum of INR 50,99,32,103.82/-, which was due as on 8<sup>th</sup> July 2013, with further interest and other charges as per the terms of the sanction within seven days ("Recall Notice"). The Recall Notice also recorded that the Corporate Debtor's account had been declared an NPA on 29<sup>th</sup> January 2019.

b. **Reply of the Corporate Debtor dated 21<sup>st</sup> August 2019 to the Recall Notice**, by which the Corporate Debtor acknowledged the debt and requested for an extension for "making the overdue payment" within a month. Pertinently, no dispute was raised either in relation to the debt or the date of default / NPA date.

c. Since the outstanding debt was not repaid despite the aforementioned commitment, the Financial Creditor issued a Notice dated 24<sup>th</sup> September 2019 Under **Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002**, calling upon the Corporate Debtor to pay a sum of INR 51,30,91,751.82 being the amount due as on 31<sup>st</sup> August 2019, with further interests and costs, within 60 days ("SARFAESI Notice"). This Notice once again recorded that the Corporate Debtor's account had been declared an NPA on 29<sup>th</sup> January 2019.

5. In the meantime, the Financial Creditor also duly reported the occurrence of the default to the information utility i.e. **National Governance Services Ltd. ("NeSL")**. The NeSL Reports annexed to the



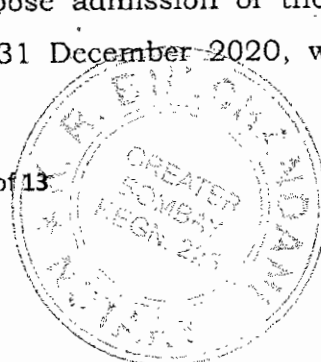
Petition show the record of communication between NeSL and the Corporate Debtor with respect to the defaults arising under each of the Facilities. Despite several opportunities and reminders given to it, the Corporate Debtor did not dispute any part of the debt, and therefore, each of the defaults was deemed to be authenticated, as is evident from **the Records of Default with the information utility**. As the Corporate Debtor had defaulted in repayment of the Facilities, this instant Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") to initiate a Corporate Insolvency Resolution Process *qua* the Corporate Debtor came to be filed by the Financial Creditor.

**Contentions of the Petitioner/ Financial Creditor:**

6. There was a "financial debt" due from the Corporate Debtor to the Financial Creditor within the meaning of **Section 5(8) of the IBC** and that a "default" has occurred within the meaning of **Section 3 (12) of the IBC**. The financial debt is in excess of the financial threshold prescribed under Section 4(1) of the IBC. Further, the financial debt is undisputed and has in fact been acknowledged and admitted by the Corporate Debtor. In this regard, *inter alia* the following documents were relied on:

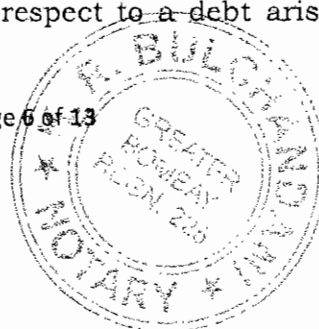
- Acknowledgments of Debt by the Corporate Debtor on 12<sup>th</sup> December 2012, 22<sup>nd</sup> April 2015 and 11<sup>th</sup> April 2018.
- The Corporate Debtor's reply dated 21<sup>st</sup> August 2019 to the Financial Creditor's Recall Notice.
- The Records of Default of NeSL which show the status of the debt under each of the Facilities as "deemed to be authenticated".

7. Even in its Reply before this Hon'ble Tribunal, the Corporate Debtor had not disputed the existence of the debt or the occurrence of a default under the IBC. The Corporate Debtor has raised, only some technical objections in an attempt to oppose admission of the Petition. The Company Petition was filed on 31 December 2020, well within the



period of limitation. This is evident from inter alia the following:

- a) the Date of Default is 29<sup>th</sup> January 2019.
  - b) the Corporate Debtor acknowledged its liability inter alia by its Acknowledgment of Debts dated 12<sup>th</sup> December 2012, 22<sup>nd</sup> April 2015 and 11<sup>th</sup> April 2018.
  - c) The Corporate Debtor again acknowledged its liability by its response dated 21<sup>st</sup> August 2019 to the Financial Creditor's Recall Notice.
  - d) In any event, the payments under the Facilities were due and payable till 2025.
8. In view of the clear terms of the IBC as well as the law laid down by the Hon'ble Supreme Court, the instant Petition ought to be admitted and Corporate Insolvency Resolution Process ought to be commenced against the Corporate Debtor.
9. To the argument of the Corporate Debtor that the Petition is hit by Section 10A of the Code, the attention of the Bench was drawn to the fact that the same has been adjudicated by Hon'ble NCLAT vide order dated 02.03.2022 in Company Appeal (AT) (Insolvency) No. 963 of 2021, *Axis Bank Limited vs. Maharashtra Theatres Pvt. Ltd.* in Petitioner's own case.
10. The Corporate Debtor also asserted that the Financial Creditor could not have preferred one application since it arises out of various Facilities. In this regard, the Financial Creditor also relied on the decision of the Hon'ble National Company Law Appellate Tribunal in *International Road Dynamics South Asia Put Ltd v. Reliance Infrastructure Ltd.* 2017 SCC OnLine NCLAT 218.
11. This decision is wholly inapplicable to the instant case. In *International Road Dynamics*, an application was filed under Section 9 of the IBC by an operational creditor, with respect to a debt arising on account of



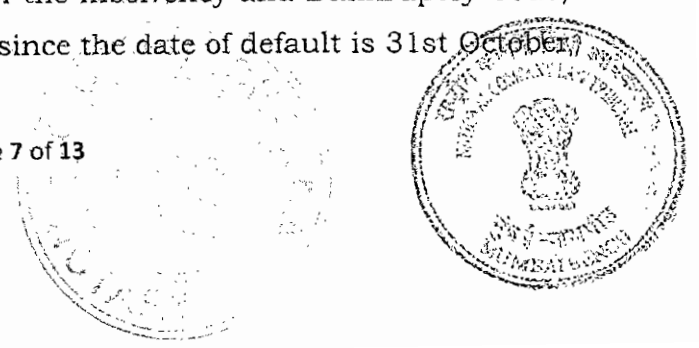


three projects. In that case, admittedly the dates of default arising under each agreement were also different. It was in this context that the Hon'ble National Company Law Appellate Tribunal made its observations in relation to a joint application.

- 12. This decision, too, does not assist the Corporate Debtor, and can be clearly distinguished from the instant case. The instant case before this Hon'ble Tribunal arises in a Section 7 Petition, where this Hon'ble Tribunal is only required to ascertain the existence of a "financial debt and "default" within the meaning of the IBC. Further, the outstanding under the Facilities was always treated as one single debt, as is evident from the Acknowledgement of Debts by the Corporate Debtor on 31<sup>st</sup> December 2009; 12<sup>th</sup> December 2012; 22<sup>nd</sup> April 2015 and 11<sup>th</sup> April 2018 as well as the correspondence between the parties including the Corporate Debtors Reply dated 21<sup>st</sup> August 2019 by which it undertook to pay all the overdue amounts within a month. Moreover, even the date of NPA / date of default for the Facilities in the instant case is one common date i.e. 29<sup>th</sup> January 2019.
- 13. In light of the aforesaid, as there has been a default within the meaning of the IBC by the Corporate Debtor and the default is in excess of the financial threshold prescribed under the IBC, the instant Petition opt to be admitted.

**Reply of the Corporate Debtor:**

- 14. The Corporate Debtor has filed its reply denying each and every allegation and contention raised by the Petitioner. The Corporate Debtor submitted that the present Petition is not maintainable and bad in law.
- 15. In the first round of litigation, the Corporate Debtor had raised the contention of the Petition under Section 7 being barred by limitation and had relied on Section 10 of the Insolvency and Bankruptcy Code, 2016 and even submitted that since the date of default is 31<sup>st</sup> October,



2020, no application for initiation of Corporate Insolvency Resolution Process could have been filed for any default arising on or after 25th March 2020, as per the notification issued by Ministry of Law and Justice dated 05.06.2020. This had been argued by the Corporate Debtor earlier too and the NCLT had vide order dated 08.10.2021 concluded that the Petition is barred by Section 10A and hence not maintainable. The Petitioner carried the appeal against this order of NCLT to NCLAT, Principal Bench, New Delhi and vide order dated 2<sup>nd</sup> March 2022, Hon'ble NCLAT held that the Petition was not barred by Section 10A and the date indicated as 31st October 2020 was not the date of default but the date on which the total amount was outstanding as mentioned in Para 4 of the Company Petition. Since the matter has already been agitated before Hon'ble NCLAT and has reached finality we hold that the Petition is maintainable.

16. The other submissions of the Learned Counsel for the Corporate Debtor are summarised as under:
- The date of default is not stated in the petition.
  - Authorization for assignment of the proposed Interim Resolution Professional is not annexed.
  - Period of default falls in the period when there was bar under Section 10A of the IBC.
  - Usurious and extortionate penal interest charged.
17. In light of the above, it was pleaded that the captioned petition filed by the Financial Creditor deserves to be dismissed.

**FINDINGS:**

18. Heard the Learned Counsel for the Petitioner and the Learned Counsel appearing for the Corporate Debtor.



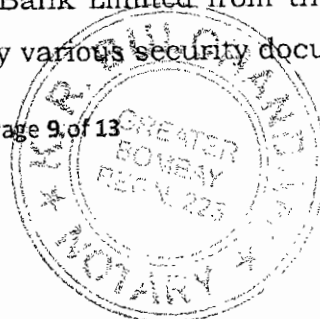
19. As mentioned above, this is the second round of litigation whereby the order was passed by Adjudicating Authority (NCLT) vide order dated 8<sup>th</sup> October 2021 and the Adjudicating Authority had held that the initiation of CIRP against the Corporate Debtor is not warranted as the Petition is clearly barred by Section 10A of the IBC. The Company Petition was dismissed by the Adjudicating Authority and the same came to be challenged before the Hon'ble NCLAT. After hearing the Counsel for the Petitioner and the Counsel appearing for the Corporate Debtor, the Hon'ble NCLAT, Principal Bench, New Delhi vide order dated 2nd March 2022 held that the date of default was never claimed as 31st October 2020 and the Adjudicating Authority had committed an error in taking 31st October 2020 as date of default and hence, came to a wrong conclusion that the Petition is barred by Section 10A. The relevant portion of the aforementioned judgment of Hon'ble NCLAT is reproduced as under:

*"5. When the Application under Section 7 is read in whole it is clear that date of default was never claimed as 31.10.2020. The Adjudicating Authority committed error is taking 31.10.2020 as the date of default and hence coming to the wrong conclusion that the application is barred by Section 10A. We, thus, are satisfied that Application was not barred by Section 10A. Further, from the list of documents which was filed by the Applicant, the credit facility recall notice dated 11.07.2019 is mentioned and brought on the record and other notices have also been referred to which clearly indicate that 31.10.2020 was not date of default.*

*6. In view of the aforesaid, the order dated 08.10.2021 is set aside. We remit back the matter to the Adjudicating Authority to pass fresh order on Section 7 Application after hearing the parties. Appeal is allowed accordingly."*

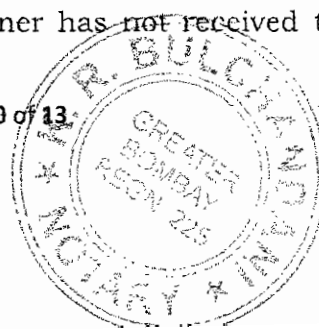
Hence, the issue regarding maintainability is set to rest.

20. It is an undisputed fact that the instant Petition raised out of the default of the Corporate Debtor in certain facilities advanced to it by the Financial Creditor i.e. Axis Bank Limited from the years 2010-2016. The facilities were secured by various security documents which are in



Form-1 Part-5 of the Petition. It is also an undisputed fact that the Corporate Debtor has, from the year 2012 to 2018, furnished several Acknowledgements of the Debt confirming the amount which were payable to the Financial Creditor in the facilities and it is liable to repay the said amount. The Acknowledgements of Debt were annexed to the Petition.

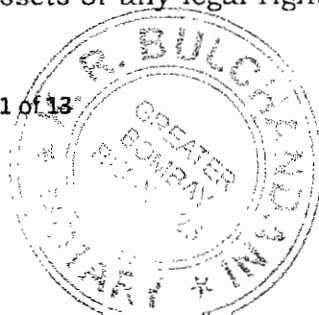
21. As borne out from the Petition, the date of default with respect to which the Petition has been filed is 29<sup>th</sup> January 2019 which is also the date on which the account of the Corporate Debtor was classified as NPA. Further, the documents executed between the Corporate Debtor and Financial Creditor, the record of default stated by NeSL reconfirms the date of default as 29<sup>th</sup> January 2019. The Recall Notice dated 11<sup>th</sup> July 2019, issued by the Financial Creditor to the Corporate Debtor, calling upon the latter to pay a sum of INR 50,99,32,103.82/- with further interest and other charges, recorded that the Corporate Debtor's account has been declared as NPA on 29<sup>th</sup> January 2019.
22. The reply of the Corporate Debtor dated 21<sup>st</sup> August 2019 to the Recall Notice did not raise any dispute in the relation to either the debt or the date of default. The Financial Creditor duly reported the occurrence of default to the information utility i.e. NeSL and the NeSL report annexed to the Petition show the record of communication between NeSL and the Corporate Debtor with respect to the default arising under all the facilities. The Corporate Debtor did not dispute any part of the debt.
23. After consideration of the facts brought on record and the acknowledgement and admission by the Corporate Debtor, we are of the view that this instant Petition filed under Section 7 of the IBC, 2016 deserves to be admitted.
24. As a consequence, keeping the aforesaid facts in mind, it is an undisputed fact that the Petitioner has not received the outstanding



amount from the Corporate Debtor and that the formalities as prescribed under the Code have been complied by the Petitioner, we are of the considered view that this Petition deserves '**Admission**' by passing the following:

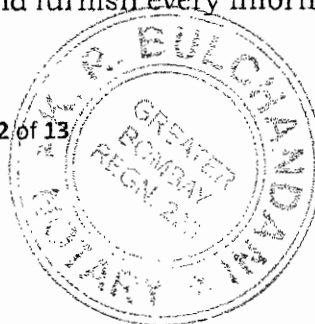
**ORDER**

- a. The above Company Petition No. 372/IBC/MB/2021 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **Maharashtra Theatres Private Limited**.
- b. The IRP proposed by the Financial Creditor, **Mr. Shailesh Desai**, ([ip10362.desai@gmail.com](mailto:ip10362.desai@gmail.com)) having registration No. IBBI/IPA-001/IP-P00183/2017-2018/10362, having address at C/o, headway Resolution and Insolvency Services Pvt. Ltd. (IPE), 708, Raheja Centre, 7<sup>th</sup> Floor, Free Press Marg, Nariman Point, Mumbai-400021, is hereby appointed as Interim Resolution Professional to conduct the Insolvency Resolution Process as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Petitioner shall deposit an amount of Rs. 5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount towards expenses and not towards fee till his fee is decided by CoC.
- d. That this Bench hereby declare moratorium in terms of Section 14 of Insolvency and Bankruptcy Code, 2016 prohibiting the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial



interest therein; any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

- e. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- f. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- g. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the Corporate Debtor will vest in the IRP/RP. The board of directors of the Corporate Debtor shall stand suspended. The members of the suspended board of directors and the employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.



- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, C.P. No. 115/IBC/MB/2021 is **admitted** and IA 379/2023 is disposed of.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

SD/-

**Anuradha Sanjay Bhatia**  
Member (Technical)

SD/-

**Kuldip Kumar Kareer**  
Member (Judicial)

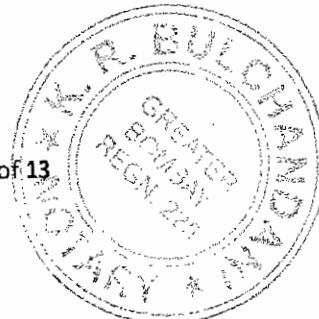
**Certified True Copy**  
Copy issued "free of cost"  
On 6/4/2023

*R. S. Somani*  
Deputy Registrar 6/4/2023  
National Company Law Tribunal Mumbai Bench

**True Copy**

*A*

Advocate For Plaintiffs / Petitioner/s



# Exhibit B

K

"Exh. A"

Lands: Bombay Suburban District,  
Survey No. 341-A, Bandra,  
Lease of for Cinema Theatre.

GOVERNMENT OF MAHARASHTRA,  
Revenue and Forests Department,  
Resolution No. LND-2667/74220-AI,  
Sachivalaya, Bombay-32,  
Dated: 15<sup>th</sup> June 1969.

**RESOLUTION:**

Sanction is accorded to the lease of land, measuring 4515 square metres from Survey No. 341-A of Bandra to M/s. Maharashtra Theatres Private Limited, Cinema Theatre on payment of rent at 5% per annum on the value of the land at Rs. 327/- (Rupees Three Hundred and twenty seven) only per

square metre and subject to the terms and conditions mentioned as an accompaniment in the accompanying Memorandum of terms and conditions.  
2. This Resolution issues with the concurrence of the Finance Department on its un-official reference No 4480/764-III dated 9th April 1969.

Typed  
as an  
accomp-  
niments  
to this  
Resolu-  
tion.

By order and in the name of the Governor of Maharashtra,

COLLECTOR BOMBAY  
SUBURBAN DISTRICT  
DATE 27 JUN 1969

( R. T. Naskar )

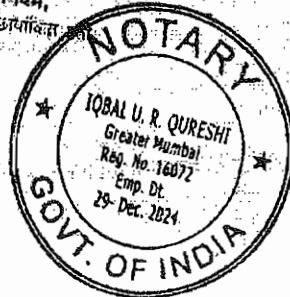
Under Secretary to the Government of Maharashtra, Revenue and Forests Department.

1183  
12733  
234  
11/16  
13/6

- To :
- The Commissioner, Bombay Division, Bombay,
  - The Additional Collector, Bombay Suburban District,
  - The Director of Town Planning Boona,
  - The Deputy Director of Town Planning, Bombay,
  - The Pay and Accounts Officer,
  - The Resident Audit Officer,
  - The Urban Development Public Health and Housing Department,
  - The Buildings and Communications Department (A Branch),
  - The Finance Department (Branch III).



बहिरीका अधिकार अधिनियम,  
२००५ अंतर्गत केवळता आदेशाचा अर्जाविका





59. 11

1017

**Memorandum of terms and conditions for the lease of plot No. 188/89 for Cinema Theatre in the Development Plan of the Greater Bombay Municipal Corporation in Survey No. 341 of Bandra (East), in Taluka Andheri, Bombay Suburban District.**

1. The Lessee will have to accept possession of the Plot in whatever condition, the same may be existing at the time of handing over possession.
2. The lease will be for 99 years, renewable for another 99 years on the same terms but on revised ground rent.
3. The ground rent will be calculated at 5% per annum on the basis of rate of Rs 327 per Square Metre.
4. The rent of the plot would be the paramount charge on the land and failure to pay the rent regularly by the lessee would entail in termination of lease without payment of any compensation for the land or building constructed thereon.
5. The lessee shall claim and develop the plot, if so required at its own cost.
6. The user of the building will be for a Cinema Theatre only and for no other purpose whatsoever.
7. The lessee shall have to furnish a security deposit to be kept permanently by the Additional Collector in cash equal to two years full ground rent.
8. No interest will be payable on the amount of security deposit paid in cash.
9. The lessee shall pay the annual rent of the leased plot and all other taxes, if there be any including Municipal Taxes every year. The recovery of ground rent shall commence after the expiry of one year from the date of possession or from the date of completion of building whichever is earlier.
10. The lessee will not directly or indirectly transfer, assign, encumber, mortgage or part with his interest under or the benefit of the agreement of lease of any part thereof in any manner without the previous consent in writing of the Government. Government will be free to refuse such consent or grant it subject to such conditions including a condition regarding the payment of premium as Government may in its absolute discretion think fit.
11. The building plans and specifications will be not approved by the Greater Bombay Municipal Corporation and the Additional Collector, Bombay Suburban District within six months from the date of possession of the plot.
12. No construction will be commenced unless the plans, elevations, and sections have been approved by the Greater Bombay Municipal Corpn. and Additional Collector, Bombay Suburban District. No additions and alterations to the building the plans of which have been approved will at any time be made except with the similar previous approval of the Greater Bombay Municipal Corpn. and Additional Collector, Bombay Suburban District.
13. The lessee shall have to obtain the required licences and permissions from the Greater Bombay Municipal Corpn. Commissioner, Police and other appropriate authorities concerning the construction.

True Copy

A

Advocate For Plaintiff/s / Petitioner/s

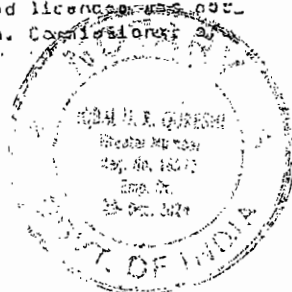
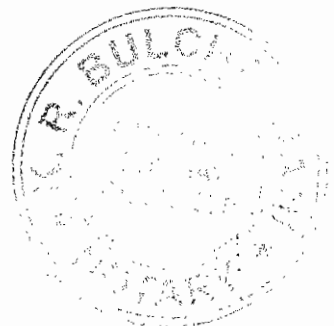


Exhibit "B"

No.C/LMD/SR.II.A.15  
Collector's Office, B.S.D.,  
Old Custom House Yard, Fort,  
Bombay.1. 11 July 1969. (5)

Read:-

- (1) Govt. Memorandum Revenue and Forests Department's No. LMD.2667/74220-A.I. dated 20-12-1967.
- (2) This office letter No.C/LMD/SR/II/15 dated 13th January 1968.
- (3) Government Resolution Revenue and Forests Dept's No.LMD.2667/74220-A.I.Ct. 18-C-1969.

ORDER

Government Land measuring 4515 Sq.Meters from S.No.341-A of Bandra, Taluka Andheri, B.S.D. as shown in the accompanying plan is hereby granted on lease for the period of 99 years, for the construction of a theatre to M/s. Maharashtra Theatres Private Ltd., on payment of rent amounting to Rs.73820-25 paise (Rs. Seventy three / twenty five) only per annum calculated at 5% full market value of Rs.227/- per sq.metre subject to the terms and conditions mentioned in the accompanying memorandum of terms and conditions.

1 thousand eight hundred twenty five

Additional Collector,  
Bombay Suburban District.

To

M/s. Maharashtra Theatres Pvt.Ltd.  
Meadows Street,  
Fort, Bombay.1.

Copy with the plan forwarded to the District Inspector of Land Records, B.S.D. Bombay with a request to hand over the possession of the land in question to the lessee and to report compliance with pucca plan and possession receipt.

Copy forwarded to the Tahsildar Andheri/Sub Divisional Officer, B.S.D. for information and necessary action.



महाराष्ट्र अर्थिकार अधिनियम,  
2004 जंतर्गत वेचवांत आलेल्या छायाचित्र प्रती

Additional Collector,  
Bombay Suburban District.

Recd.  
K. M. Vardhan Patil  
& Hind Mahavishi Const Co  
11/9/69.

Competition  
amended as per  
letter no 2662 / 24.12.69  
23-12-69

True Copy

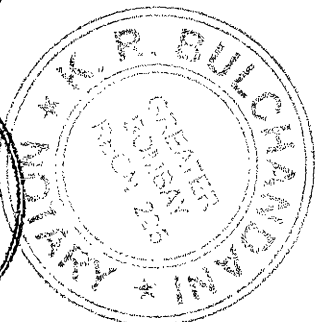
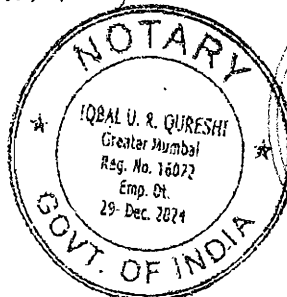


Exhibit D

4

"Ex-I"

8/15

कमाली, जमोन २६००/१११५/प्र.क्र. २१२/ज-१  
 महसूल व वन विभाग  
 मुंबई, मुंबई - ४१  
 दिनांक ११/११/२००१

विषय :- जमीन - मुंबई उपनगर जिल्हा

स.नं. ३४१ अ. बांदी महाराष्ट्र थिएटर प्रा. लि.  
 (कला मंदिर बांदी) यांना भाडेपट्ट्याने मंजूर  
 केलेल्या जमिनीच्या वापराला बदल करून देणेबाबत.

शापत :-

जिल्हाधिकारी, मुंबई उपनगर जिल्हा यांना त्यांच्या क्रमांक ११/३ डी/एल-०२३५ दिनांक १०-१२-२००० च्या पत्रास अनुषंगाने विज्ञापनपूर्वक असे फळविण्यात येते की, महाराष्ट्र थिएटर प्रा. लि. (कला मंदिर बांदी) यांना थिएटराचे वापरण्याकरिता मधील बांदी येथील स.नं. ३४१ जमिनी ४५१५ चौ.मी. जागील शासन जागत, महसूल व वन विभाग, क्रमांक एलएनडी २६६५/४५१५/ज-१ दिनांक १०-६-१९६९ अन्वये १९ वर्षांच्या भाडेपट्ट्याने मंजूर करण्यात आली आहे. कंपनीने केलेल्या विनंतीनुसार प्रस्तावित जमिनीसाठी उपलब्ध होणाऱ्या चढ दरसंपेकी १०% चढ दर क्षेत्र चित्रपटगृहाकरिता १०% चढ दर क्षेत्र वक व दुकाने याकरिता आणि ८०% चढ दर क्षेत्र हॉटेलकरिता वापरण्याची परवानगी शासन शापन महसूल व वन विभाग क्रमांक जमोन २६८९/१२.क्र. २१४६/ज-३ दि. ३०-६-१९९४ अन्वये काही अटी / शर्तीवर देण्यात आली आहे.

२. महाराष्ट्र थिएटर प्रा. लि. (कला मंदिर बांदी) यांनी त्यांना शासन जापत दिनांक ३०-६-१९९४ अन्वये जमिनीच्या वापरसंदर्भात अनुज्ञेय प्रयोजनामध्ये पुन्हा बदल करून विळण्याबाबत केलेल्या विनंतीच्या अनुषंगाने विकास नियंत्रण नियमावलीतील तरतुदीच्या अधीन राहून प्रस्तावित जमिनीसाठी अनुज्ञेय उरण-या चढ दरसंपेकी १०% चढ दर क्षेत्र चित्रपटगृहाकरिता १०% चढ दर क्षेत्र कार्यालये याकरिता दिनांक १-७-१९८१ व दिनांक ३०-६-१९९४ च्या आदेशातील अटी / शर्ती तसेच याबाबत जिल्हाधिकारी यांना योग्य वाढीस अशा बाबतित अटीवर तसेच खाली नमूद केलेल्या थिएटर बाटीवर वापरण्यास परवानगी दिल्यापासून ३ वर्षांच्या आत वरील वापरपूर्ण करून प्रत्यक्ष वापर सुरू करण्यात यावा.

- ब) परभाषीत जमिनीचा वापर विकास नियंत्रण नियमावलीतील तरतुदीनुसार करण्यात यावा तसेच वापरकर्त्याचे आराखडें मुंबई उपनगर पालिकेकडून मंजूर करून घ्यावत.
- क) १५० आसनसंमतेचे चित्रपटगृह १०% चढ दरसंगत बसले पाहिजे.

३. महाराष्ट्र थिएटर (कला मंदिर बांदी) यांना मंजूर केलेल्या जमिनीवरील वापरात अनुज्ञेय होणा-या वापराला घाली नमूद केल्याप्रमाणे भाडेपट्टा आकारण्यात यावा.

क्र.सं.	वापर प्रयोजन	क्षेत्र	आकारात याचा भाडेपट्टा / अस्तित् उतपन्न
१	चित्रपटगृह	१०%	प्रति चौ.मी. ३२७/- प्रमाणे होणा-या किंमतीच्या ५ टक्के रॉस भाडेपट्टा.
२	कार्यालय	१०%	प्रति चौ.मी. ३२७/- प्रमाणे होणा-या किंमतीच्या ५ टक्के रॉस भाडेपट्टा शेषिक ५०% अस्तित् उतपन्न

हे जापन शासन विकास विभाग व वित्त विभागांच्या अस्तित्पारिक संदर्भ क्रमांक प्र.क्र. १०५/४४१-१ दिनांक २२-१-२००१ च्या संहपतीने निर्मित होते आहे.

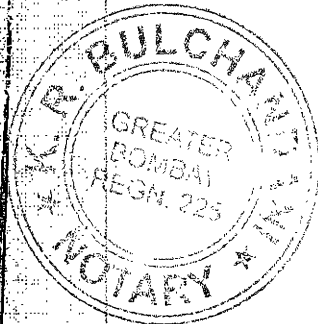
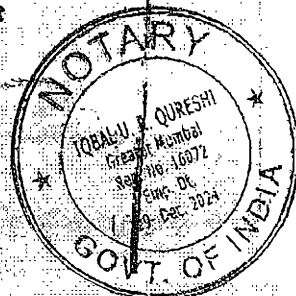
महाराष्ट्र राज्यपाल यांच्या आदेशानुसार बजावले.



प्रति,

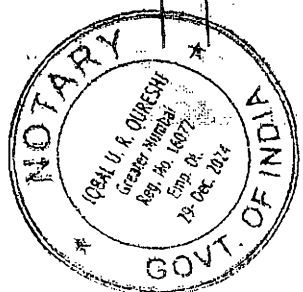
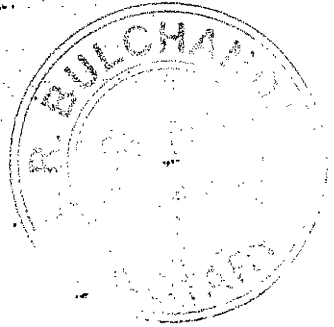
जिल्हाधिकारी,  
 मुंबई उपनगर जिल्हा, शासन  
 बांदी (पूर्व), मुंबई - ४१

*(Signature)*  
 (सिखली पाटकर)  
 कार्यालय अधिकारी  
 महसूल व वन विभाग



- प्रतिनिधी
- १) आयुक्त, कोकण विभाग, कोकण भवन, नवी मुंबई
  - २) जन्मबंदी आयुक्त, व संचालक, ममी अशिलेख, महाराष्ट्र राज्य, मुंबई
  - ३) महालेखापाल, महाराष्ट्र राज्य, मुंबई/नागपूर
  - ४) महालेखापाल, महाराष्ट्र राज्य मुंबई/नागपूर (लेखा व अनुज्ञेयता)
  - ५) सहाय्यक संचालक, नगर रचना व सुल्यनिर्धारण, मुंबई
  - ६) आयुक्त, बृहन्मुंबई महानगरपालिका, मुंबई
  - ७) निवडनस्ती, ज-३ कार्यालय, महसूल व वन विभाग, मंत्रालय, मुंबई - ४२

भारतीय अधिकार अधिनियम  
 १९०६ अंतर्गत वेगवेगळे अणुवेद्य छात्रांकित प्रती



True Copy

*(Signature)*

Advocate For Plaintiffs / Petitioner/s

**Exhibit-D-1**

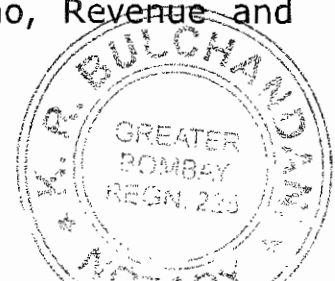
No. Land 2600/1316/C.N.292/J-3  
Revenue and Forest Department  
Mantralaya, Mumbai - 29  
Date - 14/12/2001

**Sub - Land - Mumbai Suburban District**

Regarding giving permission for changes in usage (Conversion) for the land in S.No.341A, Bandra sanctioned on lease basis to the Maharashtra Theatre Pvt. Ltd.

**Memorandum:-**

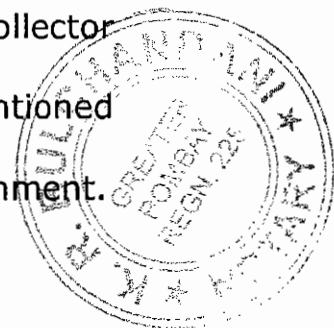
In pursuing to the letter bearing No.11/3/D/L/-0235, DATED 4/12/2000 of District Collector, Mumbai Suburban District it is hereby informed to you that vide the Government Memorandum, Revenue and Forest Department, bearing No.LND2667/74620/A-1, dated 18/6/1969, the land in S.N.341A, at Bandra, admeasuring area -4515 Square Meter was sanctioned to Maharashtra Theatre Pvt. Ltd.,(Kalamandir, Bandra) for constructing Cinema Theatre. According to the request of the said company, vide the Government Memo, Revenue and



54

Forest Department land 2689/C.N.2146/L-3, dated 30-6-1994, amongst the total FSI that would be available on the land mentioned in the subject hereinabove 10% FSI for the Cinema Theatre, 10% FSI on bank and shop and rest of 80% FSI was been allowed/permittted for hotel, by abiding some terms and conditions.

2. Pertaining to the said land, in pursuing the request of Maharashtra Theatre Pvt. Ltd., (Kalamandir Bandra) seeking permission for getting changes again in permissible usages provided in the Government Memorandum Dated 30/06/1994, by abiding the provisions provided in the Development Control Regulation, for availing 10% FSI for Cinema Theatre and 90% FSI for office amongst the total area that would be permissible for the land mentioned in subject, by abiding the terms /conditions in the order dated 30/06/1994 and 9/7/1981 and in this regard additional terms and conditions that may fit in in view of the District Collector and specific terms and conditions that mentioned hereunder, permission is being given by the government.



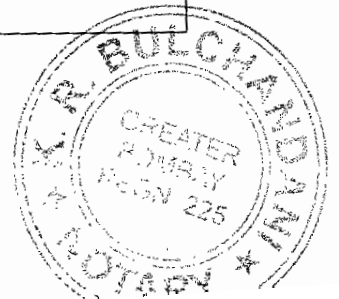
(a) After giving permission as mentioned above, within 2 years the actual use should be initiated by completing the above mentioned construction.

(b) The land mentioned in the subject should be used as per the provision in the Development Control Regulation as well the construction lay out should be get sanctioned from the Municipal Corporation of Grater Mumbai.

(c) The Cinema Theatre of 150 sitting capacity should be squared /arranged within 10% FSI area.

For the above mentioned use that would be permissible on the land sanctioned to Maharashtra Theatre (Kalamandir Bandra), the lease should assess as mentioned hereunder.

Sr.No.	Use	Area	The assessment to be assessed/Unearned income
1	Cinema Theatre	10%	Lease Rent by the rate of 5% on the amount calculated by the rate of Rs.327/- per square meter.
2			Lease Rent by the rate of 5% on the amount calculated by the rate of Rs.327/- per square meter + 50% unearned amount



56

4. The said memorandum is being issued with the approval of informal Ref No.105/EX-9, dated 22-1-2001 of the Town Planning Department and Finance Department.

By the name and order of Governor of Maharashtra.

Sd/-

Shivaji Patankar

Desk Officer  
Revenue and Forest Department

To,

Collector,

Mumbai Suburban District

Bandra (East), Mumbai-51

Copy to :-

- 1) Commissioner, Konkan Region, Konkan Bhavan, New Mumbai.
- 2) Jamabandi Commissioner and Director, Land Records, Maharashtra State, Pune.





- 3) Accountant General, Maharashtra State, Mumbai/  
Nagpur.
- 4) Accountant General, Maharashtra State,  
Mumbai/Nagpur.(Accounting and Permission)
- 5) Assistant Director, Town Planning and Value  
Assessment, Mumbai.
- 6) Commissioner, Greater Municipal Corporation,  
Mumbai.
- 7) File, L -3, Desk, Revenue and Forest Department,  
Mantralaya, Mumbai - 32.



क्रमांक : एलबीआर २५२०००/१७५७५६/प्र.क्र. १६३/ज-२

बुलचान व वन विभाग,

मंत्रालय, मुंबई - ३२

दिनांक : २३-११-२००१

विषय :- शासनाने औद्योगिक तथा वाणिज्यिक प्रयोजनासाठी मंजूर केलेल्या जमिनीवरील इमारतीतील जागेची तसेच औद्योगिक व वाणिज्य आपरातील जागेची / सदनिकांची विक्री / हस्तांतरण करणेबाबत.

पहा :- १) शासन ठराव क्रमांक एलएनडी ४८५७/१६९१४६/अ-१

दिनांक २१-११-१९५७

२) शासन निर्णय क्रमांक एलबीएल १०८६/२६४४/प्र.क्र. १९६/ग-८

दिनांक १४ जून, १९८८

**प्रस्तावना :-**

शासन निरनिराळ्या प्रयोजनासाठी शासकीय जमीन कब्जेहक्काने, भाडेपट्ट्याने तथा सवस्वतीची कब्जेहक्काची किंमत आकारून नियमातील तरतुदी व प्रचलित धोरणानुसार घाटप करीत असते. शासनाने अशा प्रकारे मंजूर केलेल्या जमिनीची कालांतराने प्रतिप्रहित्याकडून विक्री करण्यास अथवा पोटभाड्याने देण्यास परवानगी मिळण्याबाबत विनंती केली जाते. अशी परवानगी देताना प्रचलित धोरणानुसार त्या जमिनीच्या / मिळकतीच्या आजच्या बाजारभावाने होणा-या विक्रीच्या किंमतीमधून प्रतिप्रहित्याने त्या जमिनीसाठी शासनास भरणा केलेली किंमत अधिक जमिनीच्या विकासासाठी केलेला खर्च ही सर्व रक्कम बजा जाता प्रतिप्रहित्यास या व्यवहारातून मिळणा-या नफ्याच्या रक्कमेमधून ५०% ते ७५% रक्कम वसूल करून जमिनीच्या विक्रीस परवानगी देण्यात येते.

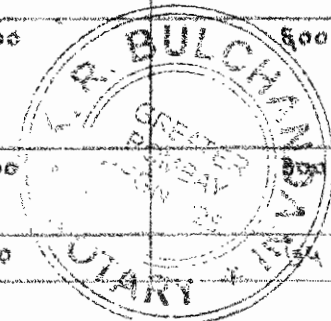
वरील धोरणाप्रमाणे संबंधितांना जमिनीची विक्री करण्यास परवानगी देण्यात येत असली तरी शासनाच्या असे निदर्शनास आले आहे की, बहुधा विक्री करणारा आणि खरेदीदार हे विक्रीची खरी किंमत शासनास उघड करीत नाही. विक्रीची किंमत / रक्कम नेहमी कमी दर्शविण्याची त्यांची प्रवृत्ती असते. त्यामुळे शासनास अनर्जित उत्पन्नाची योग्य व खरी रक्कम मिळत नाही अशा प्रकारे शासनाचे होणारे नुकसान टाळण्याच्या दृष्टीने कब्जेहक्काने अथवा भाडेपट्ट्याने दिलेल्या शासकीय जमिनीवर बांधण्यात आलेल्या इमारतीमधील जागा विक्री / हस्तांतरण / भाड्याने देण्यास परवानगी देताना आकारावयाची हस्तांतरण फी, ही इमारतीतील जागेच्या प्रती चौ.फुट क्षेत्रावर आकारून, त्यामध्ये सुटसुटीतपणा व पारदर्शकता आणण्याची बाब शासनाच्या विचाराधीन होती. त्याबाबत शासनाने आता पुढीलप्रमाणे निर्णय घेतला आहे.

**निर्णय :-**

औद्योगिक तसेच वाणिज्यिक प्रयोजनासाठी मंजूर केलेल्या शासकीय भूखंडावर खाजगी व्यक्तींनी, संस्थांनी / विकासाकामी बांधलेल्या इमारतीच्या पूर्णत्वाचा दाखला मिळाल्यानंतर इमारतीतील जागेची विक्री / हस्तांतरण करण्यास हरकत नसावी.

१) इमारतीतील जागेची विक्री / हस्तांतरणास परवानगी देताना पुढीलप्रमाणे हस्तांतरण फी / अनुज्ञापत्री फी आकारण्यात यावी.

अ.क्र.	ठिकाण / क्षेत्र	विक्री / हस्तांतरण फी चा प्रती चौ. फुटाचा दर (रुपयात)	
		औद्योगिक	वाणिज्यिक
१	मुंबई शहर जिल्हा व मुंबई उपनगर जिल्हा	१,०००	१,५००
२	वरील (१) येथील क्षेत्रा व्यतिरिक्त इतर महानगरपालिका क्षेत्र	४००	६००
३	वरील १,२ व्यतिरिक्त इतर नगरपालिका क्षेत्र	२००	३००
४	ग्रामीण क्षेत्रासाठी	५०	



59

- २) सवर जागा औद्योगिक प्रयोजनासाठी पोटभाड्याने / भाड्याने घेताना वरील हस्तांतरण फी च्या १०% प्रमाणे व वाणिज्यिक प्रयोजनासाठी १२.५% प्रमाणे प्रती वर्षी अनुज्ञापत्री फी आकारण्यात यावी.
- ३) सहकारी गृहनिर्माण संस्थांना भेजून केलेल्या जमिनीवरील इमारतीमधील जेवढे क्षेत्र वाणिज्यिक प्रयोजनासाठी वापरण्यास परवानगी दिलेले असेल तेवढी जागा भाड्याने देण्यासाठी पूर्णत्वाचा या त्या मिळाल्यानंतर वरील प्रमाणे अनुज्ञापत्री फी आकारून भाड्याने देण्यास परवानगी देण्यात यावी.
- ४) अनधिकृतरीत्या वापरात घेतलेल्या अथवा अनधिकृत विद्वाी केलेल्या प्रकारातध्ये या आवेशाच्या ताबडोबासून सहा महिन्यांच्या आत स्वतःतून संबंधीत व्यक्ती / संस्था असे हस्तांतरण / शर्तमग नियमानुकूल करून देण्यासाठी पुढे आल्यास त्यांना वरील (१) व (२) मध्ये नमूद केलेल्या दराने फी आकारण्यात यावी. मात्र सहा महिन्यांनंतर अशा प्रकारात पुढे दराने देण्याची फी आकारण्यात यावी.
- ५) हा निर्णय सहकारी गृहनिर्माण संस्थांना जमिनी देणेबाबत घेतलेला धोरणात्मक निर्णय दिनांक ९-७-१९९९ पासून पूर्वलाही प्रभावाने लागू करण्यात यावा. तसेच सहकारी गृहनिर्माण संस्थांच्या इमारतीतील जागा / सदनिका वाणिज्य प्रयोजनाच्या वापरातील जागेसाठी देखील लागू करण्यात यावा.
- ६) ज्या शासकीय जमिनी महानगरपालिका, नगरपालिका, नगर परिषदा, गांध्यावाडे हस्तांतरित झालेल्या आहेत त्या जमिनींना देखील उपरोक्त धोरण लागू राहिल. अशा व्यवहाराद्वारे महानगरपालिका, नगरपालिका, नगर परिषदा यांना मिळणाऱ्या निष्पन्न उत्पन्नातून ५०% उत्पन्न शासनास जमा करण्यात यावे.
- ७) उपरोक्त हस्तांतरण फी ही मोकळ्या जमिनीच्या हस्तांतरणास लागू होणार नाही. मोकळ्या जमिनीवरील सध्याच्या अल्पित उत्पन्नाचेच धोरण लागू राहिल.
- ८) वरील निर्णयानुसार पुढील कार्यवाही करण्याचे अधिकार जिल्हाधिकारी यांना देण्यात येत आहेत.
- ९) दिनांक ९-७-१९९९ पासून प्रलंबित असलेली अशी प्रकरणे या धोरणानुसार जिल्हाधिकारी यांनी निवटली पाहिलीत.
- १०) जिल्हाधिकारी यांनी या आवेशाला वर्तमान पत्राद्वारे या अन्य माध्यमाद्वारे व्यापकपणे जाहीर प्रसिध्दी द्यावी.

हे आवेश वित्त विभागाच्या संगतीने, त्या विभागाच्या अनौपचारिक संदर्भ क्रमांक १४४४/२००१/व्यय-९ दिनांक २३-११-२००१ अन्वये निर्गमित केले आहेत.  
 महाराष्ट्राचे राज्यपाल यांच्या आवेशानुसार घेतावाने,

*(Handwritten Signature)*  
 (ज. का. वरत)  
 अवर सचिव  
 महसूल व वन विभाग



प्रति,

सर्व विभागीय आयुक्त  
 सर्व जिल्हाधिकारी

True Copy

*(Handwritten Signature)*  
 Advocate For Plaintiffs / Petitioner/s

**Exhibit-E-1**

No. LBR 252000/175756/Pcg.No.963/J-2

Revenue and Forest Department.Ministry, Mumbai – 32.

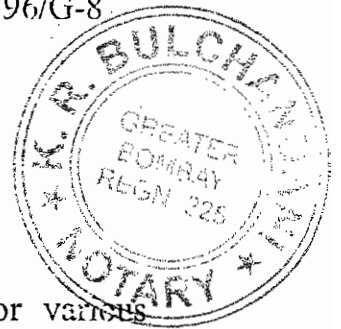
Date : 23-11-2001.

Subject	Regarding sale / transfer of the premise of building/Industrial and Commercial Premise/Flat having on land granted by the Government for industrial and commercial purpose.
---------	---

- See- 1. Government Resolution No. LND 4857/169146/A-1 dated 21-11-1957.
2. Government Resolution No. LBL 1086/2644/Pcg.No.196/G-8 dated 14-06-1988.

**Preface:**

Government uses to distribute government land for various purposes by mortgage, rent-deed, as also on concessional assessment of mortgage right as per terms of rules and existing policy. Later on such possessors use to request for sale or sub-letting such land granted by the Government. While granting such permission, as per existing policy, after deducting the amount



61

deposited by such possessors with the Government and the expenses made for development of the said land and after recovering 50% to 75% profit earned by such possessors in such a transaction, permission for sale of land is given.

As per above policy, even though permission for sale of land is granted to concerned, it is noticed by the Government that the seller and purchaser do not declare realvalue of sale to the Government. They are of the nature to always show less value/amount. Therefore, the Government could not get suitable and real value of such unearned income. In order to avoid loss of the Government by such a way, aspect of charging transfer fee per square feet in the building while granting permission to sale /transfer/rent and to bring clear and transparency in such a proceeding, was under consideration of the Government. In that respect, the Government has taken decision as follows:-

**Decision:**

There shall be no objection for sale/transfer of the building premise after getting completion certificate by the individual person/society/developers who constructed building on the government plot granted for Industrial and Commercial Purpose.



1. While granting permission for sale/transfer of area in a building transfer fee/permission fee shall be charged as follows:

Sr. No.	Place / Area.	Rate in Rupees per square fee for sale / transfer fee.	
		Industrial.	Commercial.
1.	Mumbai City, District and Sub-urban District Mumbai.	1,000-00	1,500-00.
2.	Other Corporation area excluding area shown in above (1).	400-00	600-00
3.	Other Municipal area excluding area shown in above 1 and 2.	200-00	300-00
4.	For Rural area.	50-00	75-00.



3

2. Every year permission fee at 10% per year for industrial purposes and 12.5% of the transfer fee for commercial purposes shall be charged while subletting/ leasing the area.

3. Permission be granted for leasing the area equal to permitted commercial area granted to Co-operative Housing Society, after getting completion certificate after charging abovesaid permission fees.

4. In case unauthorized change in use is made or in case of unauthorized sale proceeding, if within six months from the date of this order, voluntarily the said person/society come forward for regularization of the breach/transfer, then they shall be charged fee as per rate mentioned in abovesaid 1 and 2. However, after six months penal fee at double rate be charged.

5. Abovesaid decision shall be commenced retrospectively from the date of policy decision with referenceto allotment of land to Co-operative Housing Societies. i.e. From 09-07-1999. Also it shall apply to the area in buildings of co-operative societies/premises used for commercialpurposes.

6. Abovesaid policy shall also be made applicable to the Government land already transferred to Corporations, Municipal Council. Net income at 50% of the income earned by the



Municipal Corporations, municipalities Municipal Council should be credited to the government.

7. Aforesaid transfer fee will not applicable for transfer of open area. For open areas, existing commuted income policy will be applicable.

8. Rights for taking further action as per abovesaid decision are being allotted to the Collector.

9. The Collector shall dispose of such proceedings pending from 09-07-1999 as per abovesaid decision.

10. The Collector shall give wide publication to this order through newspaper and other media.

This order is issued with the consent of Finance Department even reference No. 1444/2001/Expenses-9/ dated 23-11-2001.

In the name and order of the Governor of Maharashtra.

Sd/-

(J. K. Gharat)

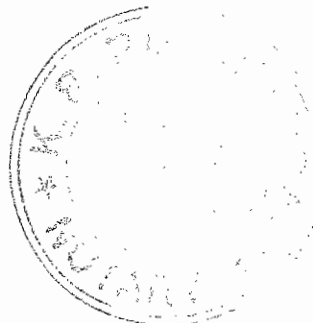
Additional Secretary.

Revenue and Forest Department.

To:-

All Divisional Commissioners.

All District Collectors.






त्याचे 'व्यापी, त्र्यसोतयण, गणकमण, मुख्यगणक, कर्मक वता प्रकृतदे प्रकृतय कर्मयोगे हितरानेन निगमित करणं वपरा पादे  
 ठेवा (डिजाईट) या सयं गोटीभाजन गणकमण्य्य अनांतर कर्मयोगे ५० % अनर्गल रकमग शारा-वास भरणांत येईल असे  
 रु. २०/- च्या मुद्रांयुक्त पपरवर ह्योगध नाहगणक सादर कराव्य.

भाडेपट्टेदार यांनी १० % व १० % याप्रमाणे अनर्गल चटईक्षेत्राच्या मुंबई महानगर पालीकेने मंजूर केलेल्या  
 नकाराची प्रत या कार्यालयास सादर करावी.

स्थळ प्रतिवर जिल्हाधिकारी यांची राहती असे

  
 जिल्हाधिकारी,  
 मुंबई उपनगर जिल्हाकरीता

प्रति,

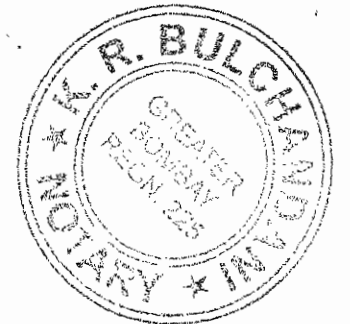
संचालक,

महाराष्ट्र विद्युत् प्रा. लि.

आर. ए. ए. हाऊस, ३ रा मजला, अकबर अलाज जवदर,

१०, वीर नरीमन रोड, फोंट.

मुंबई-४०००२३



**True Copy**

  
 Advocate For Plaintiffs / Petitioner/s

# जिल्हाधिकारी मुंबई उपनगर जिल्हा यांचे कार्यालय

प्रशासनिक इमारत, १४ वा मजला, सरकारी वसाहत, बांद्रा (पूर्व) मुंबई-४०० ०५१

क्रमांक : ११/३डी/एच-०२३५  
दिनांक : १२/१२/२००१

य घते:-

शासन, महसूल व वन विभाग जापन क्र. जमिन-२६००/१३१६/ प्र क्र. २९२/ज-३ दि. ७/११/२००१.

आदेश:-

महाराष्ट्र थिएटरस प्रा. लि. ( कला मंदीर चेंद्रे) यांनी त्यांना शासन जापन दि. ३०/६/१९९४ अन्वये जमिनीच्या वापरा संबंधित अनुज्ञेय प्रयोजनामध्ये पुन्हा बदल करून मिळण्याबाबत केलेल्या विनंतीच्या अनुषंगाने विकास नियंत्रण नियमावलीतील तरतुदीच्या अधीन राहून मीज बांद्र येथील स. नं. ३४१ अ मधील ४५१५ चौ. मी. जमिनीसाठी तसेच हांगाच्या चटई क्षेत्रापैकी १०% चटई क्षेत्र चित्रपट गृहाकरिता, ९० % चटई क्षेत्र कार्यालया करीता दि. १/७/१९८२ य दि. ३०/६/१९९४ च्या आदेशातील अटी/शर्ती तसेच याबाबत जिल्हाधिकारी यांना योग्य घाटलेले अशा अतिरीक्त अटीवर तसेच खाली नमूद केलेल्या विशिष्ट अटीवर वापरण्यास परवानगी देण्यास शासन जापन, महसूल व वन विभाग क्र. जमिन-२६००/१३१६/प्र. क्र. २९२/ज-३ दि. ७/११/२००१ अन्वये दिलेल्या मंजूरीस अधीन राहून या कार्यालयाची मंजूरी देण्यात येत आहे.

- अ) वरील प्रमाणे परवानगी दिल्यापासून ३ वर्षांच्या आत वसूल बांधकाम पूर्ण करून प्रत्यक्ष वापर सुरु करणेला यावे.
- ब) प्रस्तापिन जमिनीच्या वापर विकास नियंत्रण विभागातील तरतुदीनुसार करण्यात यावा. तसेच बांधकामास आराखडे मुंबई नगरपालिका कार्यालय येथे सादर करावे.
- क) १५० आसन क्षमतेची चित्रपटगृह १० % चटई क्षेत्रात वसले पाहिजे.

महाराष्ट्र थिएटरस प्रा. लि. कला मंदीर चेंद्रे यांना मंजूर केलेल्या जमिनीवरील उपरोक्त अनुज्ञेय हांगाच्या वापरासाठी भाडेपट्ट्याची आकारणी खाली नमूद केल्याप्रमाणे करावेत येत आहे.

अनु. क्र.	वापर प्रयोजन	क्षेत्र	जमिनीचा दर	भाडेपट्ट्याचा दर	वार्षिक भाडेपट्टा
१	चित्रपटगृह	१० % (४५१.५ चौ.मी.)	रु. ३२७/- प्र. चौ. मी.	५ %	रु. ८२३६/-
२	कार्यालय	९० % (४०६३.५ चौ.मी.)	रु. ३२७/- प्र. चौ. मी.	५ %	रु. ७४१४७/-
एकूण					रु. ८२३६५/-

महाराष्ट्र थिएटरस प्रा. लि. यांचे वर नमूद केल्याप्रमाणे भाडेपट्ट्याची रक्कम तहसिलदार अंपरी यांचे वर देण्या करावी.

महाराष्ट्र थिएटरस प्रा. लि. यांनी कार्यालयासाठी जमिनीच्या १०% चटई क्षेत्रासाठी (४०६३.५ चौ. मि.)

भाडेपट्ट्याच्या रकमे व्यतिरिक्त ५०% अनंतीत रक्कम देण्याची आहे. त्यांनी सदर भाडेपट्टी विकरीत करून कार्यालय बांधून

D:\Dzsk \11\Dunahajadaha



**Exhibit-F-1**

**The office of District Collector, Mumbai Suburban  
Government Building, 10<sup>th</sup> floor, Government Colony, Bandra  
(E), Mumbai – 400051.**

No.11/3D/H-0235

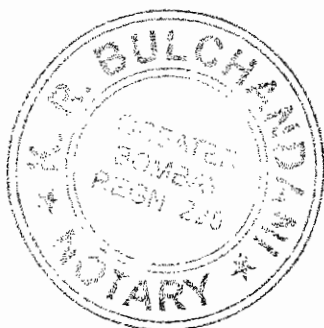
Date :- 12/12/2001

**Read:-**

Government Memorandum No.2600/1316/C.N.292/L-3, dated 7/11/2001 of Revenue and Forest Department.

**Order:-**

In pursuing the request of Maharashtra Theatre Pvt. Ltd., (Kalamandir Bandra) seeking permission for getting changes again in permissible usages pertaining to the land provided in the Government Memorandum Dated 30/06/1994, by abiding the provisions provided in the Development Control Regulation, for availing 10% FSI for Cinema Theatre and 90% FSI for office amongst the FSI that would be permissible for the land admeasuring area 4515 square meter, in Survey No. 341 A, at Bandra, by abiding the terms /conditions in the order dated 30/06/1994 and 9/7/1981 and in this regard additional terms and conditions that may fit in the view of the District Collector and



specific terms and conditions that mentioned hereunder, permission is being given by the government by abiding the government Memorandum, Revenue and Forest Department No. Land – 2600/1316/C.292/L-, dated 7/11/2001.

(a) After giving permission as mentioned above, within 2 years the actual use should be initiated by completing the above mentioned construction.

(b) The land mentioned in the subject should be used as per the provision in the Development Control Regulation as well the construction lay out should be get sanctioned from the Municipal Corporation of Greater Mumbai.

(c) The Cinema Theatre of 150 sitting capacity should be squared /arranged within 10% FSI area.



For the above mentioned use that would be permissible on the land sanctioned to Maharashtra Theatre (Kalamandir Bandra), the lease should assessed as mentioned hereunder.

Sr.No.	Use	Area	Land Rate	Lease Rate	Annual Lease Rent
1	Cinema Theatre	10% (451.5 Sq.Mt.)	Rs. 327/- Per Sq. Mt.	5%	Rs. 8238
2	Office	90%	Rs.	5%	Rs. 74143/-

		(4063.5 Sq. Mt.)	327/- Per, Sq. Mt.		
		Total			Rs. 81281/-

The Maharashtra Theatre Pvt. Ltd., should pay the amount of the lease rent as mentioned above to the Tahsildar, Andheri.

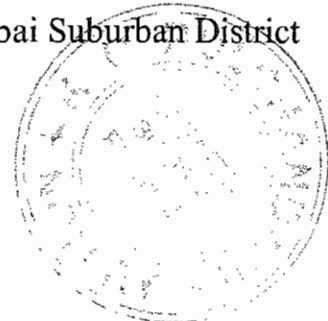
Except the amount towards lease rent for 90% FSI (4063.5 Square Meter) for office use, the Maharashtra Theaters shall pay 5% unearned amount thereon. As well they should give in written a guarantee on the stamp of Rs. 20/- that by developing the said plot and by constructing offices thereon and through the unearned income from the sources created thereon i.e. Selling, Conveying, Agreement to Sale, Power of Attorney as well creating of right of any third party person, deposits 50% unearned amount will be paid to the government.

The Lease Holder should submit the copy of the lay out sanctioned by the Municipal Corporation of Greater Mumbai for 10% and 20% to this office.

Sd/-

District Collector

For Mumbai Suburban District



70

Counter copy has been signed by the District Collector

To,

Director, Maharashtra Theatres, Pvt. Ltd.,

R.N.House, 3<sup>rd</sup> floor, Near Akbar Ali's

50, Veer Nariman Road, Fort,

Mumbai – 400023



Ex-D

Ex-L

EX-D-C-D

59/50  
14/05/10

9303 553730

10 Certificate u/s 22(1) (b) of the Bombay Stamp Act, 1958.  
 Office of the Collector of Stamps, Mumbai  
 Date: 13/05/2005

Received from Shri. M. V. K. ... Director of ...  
 stamp duty of Rs. 13,27,000/- ...  
 with which this individual ... has been paid vide office No. ...  
 This certificate is subject to the provisions of section 22 (1) of Bombay Stamp Act, 1958.

Place: Mumbai  
 Date: 13/05/2005

Stamp: M.V.K. 13,27,000/-  
 Amount: 4375 3/4

(907) of M.V. 13, 27, 405/- Commission Rs. 13,27,000/-



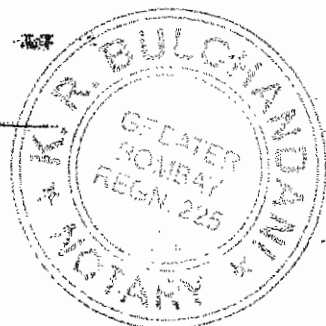
LEASE AGREEMENT

THIS AGREEMENT MADE AT MUMBAI THIS 5<sup>th</sup> DAY OF June 2005 BETWEEN THE GOVERNMENT OF MAHARASHTRA, EXERCISING the executive Power of the Government of the State hereinafter called "THE LESSOR", (which expression shall unless repugnant to the context mean and include its successors in office and Assigns, etc.)



ONE PART: THE GOVERNMENT OF MAHARASHTRA THE OTHER PART: MAHARASHTRA THEATRES PRIVATE LIMITED

Each to be signed by the ...



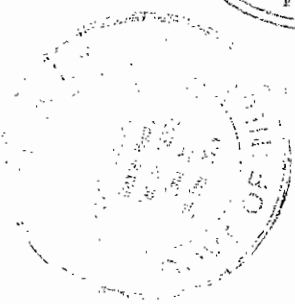
72

12

LTD., (KALAMANDIR), a company incorporated under the Indian Companies Act, 1956 and having its registered office at RNA House, 3<sup>rd</sup> Floor, 50, Veer Nariman Road, Fort, Mumbai - 400 023, (hereinafter referred to as "THE LESSEE", (which expression shall repugnant to the context meaning thereof shall mean and include the Managing Director, The Secretary and/or successor in interest and/or assignees for time being) of the Other Part.

WHEREAS

- a) The Lessor is absolutely seized and possessed of or otherwise well and sufficiently entitled to the piece of land situated bearing Survey No. 341-A of Village Bandra, Taluka Andheri, District Mumbai Suburban.
- b) The lessee requested the Lessor to grant a long term lease of plot of Government land bearing Survey No. 341-A Village Bandra, Taluka Andheri, Mumbai Suburban District and more particularly described in the schedule referred to hereunder which the lessor has agreed to do on the terms and conditions hereinafter contained.
- c) In pursuance of the Government Revenue & Forest Department Memorandum No. LND. 2667/74200-A1 dt. 30/12/1967, letter No. C/LND/SR.H.15 dated 13/1/1968 and Government Resolution Revenue & Forest Depart No. LND. 2667/74220-A1 dated 18/6/1969, the lessor under his office letter No. C/LND/SR.H.A.15 dated 11/9/1969 was pleased to grant lease of Government land area, 4515 sq. mtrs. (herein after referred to as the "said Plot") from S.No. 341-A of Bandra, Taluka Andheri, Mumbai Suburban District for the period of 99 years for construction of Cinema Theatre subject to the terms and condition in the accompanying memorandum dated 12/6/1969.





30/5/81

13

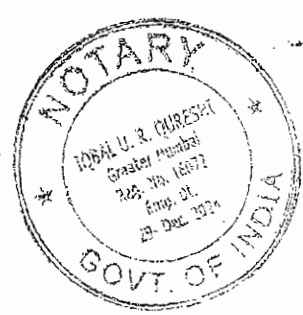
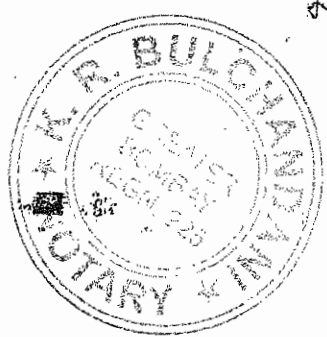
d) The lessees have to deposit an amount of Rs.50000/- provisionally (the same can be increased or decreased as per Govt. policy/rule) in cash to be kept by the Collector, M.S.D. throughout the term of lease without payment of interest. This deposit or such portion of it as Government may finally determine will be liable to be forfeited by the Collector, M.S.D. if there is any breach of the lease conditions. In case of such forfeiture the lessees will reimburse the deposit to the extent of amount forfeited within 15 days of their being called upon to do so. This right of forfeiture will be in addition to and without prejudice to Government's other rights and remedies against the Lessees under the lease.

e) The said land being Govt. land no part of the lessor/Govt. revenue cesses or Municipal Taxes etc herein after agreed to be paid by the lessee.

f) In the meantime the lessee had approached the Government for permission to change the user of land as it was not viable to run the theatre purposes only.

Government conveyed its sanction vide Memorandum No. LND2680/2829-G-3 dt 9/7/1981 for permitting the lessee company to utilize the full permissible F.S.I. for the said mixed users in following manner

- 1) Cinemas Theater, 45% of the total area of the land leased to lessee company & continue to be charged lease rent @ 5% of full market value to be calculated at the rate of Rs. 327/- per sq. mtrs.
- 2) Shops and Bank users to use 15% of the F.S.I. for this user. The said area of the land leased to lessee company to be charged lease rent @ 5% of full market value in terms of grant. In addition to the lease rent, 50% of the unearned income on account of rent receivable by the lessee company from the licensees



74

14

(i.e. 50% of the net profit of the lessee) should also be recovered from the lessee every calendar years.

9) Hotel user to utilize 40% F.S.I. for the purpose of hotel to be run by themselves only. 40% of the total area of the lease to the lessee company therefore be charged lease rent at 8% p.a. of the current full market value of the land as may be determined by the Government. The Government has further directed that lessee company should give an undertaking in writing on a stamp paper to the effect that they agree to pay the lease rent at 8% p.a. on the current full market value of the land that will be finally decided by Government in its sole discretion in respect of the 40% of the total area of land.



a) The possession of the land granted on lease has already been given to the lessee Company on 2/1/1970, i.e. date of commencement of lease.



b) During the said term hereby granted, lessee on to duly pay to the lessor the lease rent for purpose are as under.

- 1) Cinema F.S.I. 45% (2031.75 sq. mtrs) lease rent Rs. 37071.30 per annum.
- 2) Shops and Bank F.S.I. 15% (677.25 sq. mtrs) lease rent of Rs. 12357.10 per annum.
- 3) Hotel F.S.I. 0.40 (1806.00 sq. mtrs) lease rent Rs. 223198.63 per annum and in manner heretofore appointed for payment thereof, clear of all deductions and not to allow the same to fall into arrears.

1) Government in Revenue and Forest department vide their resolution dt. 30/6/1994 had permitted to use 10% F.S.I. for Cinema purpose 10% F.S.I. for Bank and shops purpose and remaining 80% F.S.I. for Hotel purpose subject to the terms and conditions contained in G.R. dt. 9/7/1981. The lessee has to pay lease rent for Hotel purpose @ rate of 8% on the market value Rs.1500/- per sq.mtr. Lessee company has to run Hotel and should not assign to any person. As per Government directions vide letter dt. 11/11/1994, Collector, has issued



Corrigendum to their order dt. 19/7/1994 that lessee has to pay lease rent on a) 3612.0 sq.mtrs. for the Hotel purposes at the rate of 8% on the full market value of Rs.1560/- per sq.mtr. i.e. Rs.4,44,397/- per year; and b) 903.0 sq.mtrs. for the Cinema Theatre, Shops and Bank at the rate of 5% on the full market value of Rs.327/- per sq.mtr. i.e. Rs.1,64,76/- per year. In addition to lessee has to pay 50% net profit per year for the area use of shops and Bank purposes.

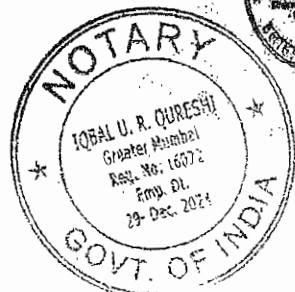
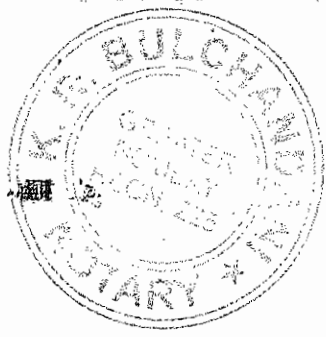


J) Further the Government in Revenue and Forest Department vide its resolution No Land 2600/1316/Pra.Kra 292/J-3, dt. 15/11/01 have granted permission for change of user in respect of permissible F.S.I. one, to be used as > 10% F.S.I for Cinema Theatre and 90% F.S.I. for offices premises. In addition to conditions of 10% F.S.I. for Cinema theatre, having a capacity of 150 seats, should be accommodated/constructed. The said permission is granted to lessee on compliance of terms and conditions of the aforesaid order dated 15/11/01.



Further Government in Revenue & Forest Department vide their Resolution No. LND 2600/1316/CR. 292/J-3 dt. 20/3/2002 have given permission to avail the benefit of TDR of an area of 4515.00 Sq. mtrs. on payment of 1% premium on the rate of Rs. 327/- per sq.mtr. (provisionally) under the said terms and conditions. The said TDR area ought to used on the plot for users as permissible under the D.C.Regulation in force & with prior permission approved of MCGM.

D) On representations made by the lessee from time to time to the State Government for the change of user of the land, which was initially granted for construction of Cinema Theatre only. Due to the heavy losses for said user, the State Government is now pleased to grant permission for change of user of Cinema Theatre, Shops, Banks & Hotels, under several orders bearing Order No.6/DESK III/LND-11-A-13 dt. 4.9.1981, 11/3-D/B-235 dt. 19.7.1994, Land 2697/592/M.No.7019/C-3 dt. 4.9.1997, C/Desk-30/L-235/WS-781 dt.1.1.1998 & Land 2600/1316/M.No. 292L-3 dt. 6/11/01 & 11/3F/H-0235 dt. 12/12/01. Ultimately the user of the land was allowed to be changed from the initial use of cinema theatre to construction of 10% Cinema Theatre and 90% for Offices premises and also permitted to use TDR on



76

16

land for users as permissible under the D.C. Regulations 1991 of Greater Mumbai Municipal Corporation.

IT IS NOW AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. It is agreed and declared that the lease is granted in respect of the aforementioned plot of land subject to the terms & conditions mentioned in letter No. C/LND/SR/II/A-15 dt. 11/9/1969 and memorandum accompanying thereto and the letter dt. 4/9/1981 by the Government in Revenue & Forest Department which are amended from time to time.
2. The lessee is permitted to mortgage the lease hold rights or part thereof with Bank or Financial Institute, subject to conditions laid down in Government in Revenue and Forests Department Memorandum No. L-2697/572/C.R.7019/3-3 dt. 4/9/1997. The lessee should strictly observe the said conditions and comply.
3. The lessee shall develop the leased land by taking into account the P.S.I. as available under the Development Control Rules and abide the terms & conditions mentioned in G.R. dt. 15/11/2001 as amended.
4. The lessee shall pay the lease rent as under :-

Area	Market Value P.S.M.	Total Amount	Percentage of Lease Rent	Amount of lease rent per annum	Purpose
10% i.e. 451.5 sq.mtrs.	Rs.327/-		5%	Rs.3,238/-	Cinema Theatre
90% i.e. 4063.5 sq.mtrs.	Rs.327/-		5%	Rs.74,143/-	Offices

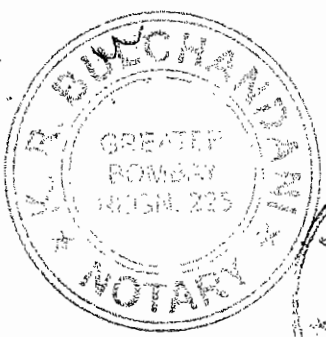


30/5/04

Aggregating to Rs.82,381/- lease rent per annum and in addition 50% unearned income for office use in case of transfer/rent for the built up area upto 3350.95 sq.mtrs for the initial F.S.I. one except with reference to use of TDR admeasuring built up area 4515sqmtrs and will also not be chargeable on the area used by the lessee for themselves from the area admeasuring 3350sqmtrs i.e. from the initial FSI one. It is clarified that the lessee was liable to pay 50% unearned income as per Government in Revenue and Forests Department Resolution No. Land 2600/1316/C.R.292/J-3 dt.15-11-2001 only with respect to the initial FSI one excluding for the use of TDR admeasuring built up area 4515sqmtrs as stated above. Now as per prevailing policy of the Govt. with respect to the use of initial FSI, it has revised its policy to charge 50% unearned income in case of transfer/rent vide G.R. No LBR-152000/175756/Pra.Kra.163/J-2 dated 23/11/2001, and amended by GR no: LBL - 1002/Pra. Kra 154/J-2 dated 24/8/2004 and hence the lessee will be liable now to pay under this GR dated 24/8/2004 which may be modified from time to time.



5. The lessee is permitted to use the TDR on the leased land for user as permissible under the Development Control Rules of the Municipal Corporation of Greater Mumbai on charging the provisionally premium @ 3% (if however Government will fix the policy the differential amount will be paid by lessee) of the lease rent value arrived @ Rs327/- per sq. mtr under the term and condition of Government in Revenue & Forest Department Resolution No. Land 2600/1316/C.R-202/J-3 dt. 20/3/2002. The permission granted for availing the benefit of TDR shall be for the lease period subject to extension of the said lease period. The lessee shall get the building plans duly approved from the Municipal Corporation of Greater Mumbai and concerned appropriate authorities from time to time, before carrying on development and construction on the leased plot under intimation to this office. TDR shall be used as per the Development Control rules



78

18

and for using the TDR, prior permission of the Municipal Corporation of Greater Mumbai should be obtained.

6. The lessee shall pay the rent hereby reserved regularly and without default. The rent shall be excluding of the taxes, assessments, dues and duties payable in respect of the said land and building or buildings to be constructed thereon, to the Government or the Municipal Corporation of Greater Mumbai or any other local authority or public body and which taxes etc., will be payable by the lessee as and when they become due and payable.

7. All taxes and other outgoings in respect of the lease hold land upto the date should be paid by the lessee.

8. That no work shall be commenced on the demised land until the plan, elevations, details and specifications shall have been approved as aforesaid and thereafter they shall not make any alteration in or additions thereto unless such alterations and additions shall have been approved by the MCGM.

9. That they will not at any time cause to or permit any nuisance in or upon the demise premises or anything which shall cause any unnecessary annoyance, inconvenience or disturbances to the occupiers of any other property in the neighbourhood and they will not erect or permit to be erected on any part of the demised premises any stable shed or other structures of any description whatsoever for keeping horse, cattle, dogs or other animals.

10. To permit the lessor or the Collector and the officers surveyors, workmen or other employed by them from time to time and at all reasonable times of the day to enter into and upon the demised premises and to inspect the state of repairs thereof and upon such inspection if it shall appear that any repairs are necessary, they or any of them may be noticed to the lessee and call upon them to execute



the repair and upon their failure to do so within a reasonable time the lessor may execute them at the expense in all respect the lessee.

11. The lessee hereby for themselves, their successors, respective heirs, executors, administrator and permitted assigns covenant with the lessor as follows:-



i) During the said term hereby granted to duly pay to the lessor the said rent at the time and on the day and in manner hereinbefore appointed for payment thereof clear of all deduction and not allow the same to fall into arrear. To duly pay all existing and future taxes, rates, charges, assessment and outgoing of every description for the time being payable either by the lessee or by the occupier in respect of the demised premises and any things for the time being thereon.

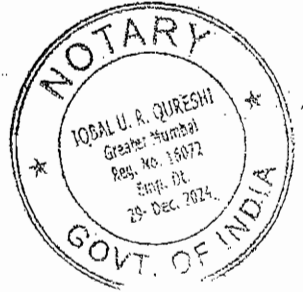
ii) That the lessee will have to obtain the required license and approval from the Municipal Corporation of Greater Mumbai, Commissioner of Police and other appropriate authorities concerned, if any before starting the construction work.

iii) That the lessee shall reclaim and develop the plot if so required at their own cost to the satisfaction of the Collector, M.S.D.

iv) Not to make any excavation upon any part of the said land hereby demised nor remove any stone, sand or gravel, clay or earth there from except for the purpose of forming foundations of the buildings or for the purpose of executing any work on the said land pursuant to the terms of this lease.

v) The use for the demised premises shall be for Theatre and offices and no other purposes whatsoever.

vi) Not to affix or display or permit to be affixed or displayed on any building or erection built or erected or to be built or erected on the demised land any sign, signboard, advertisement or any permanent or temporary attachment whatever of the nature of an advertisement without the previous consent in



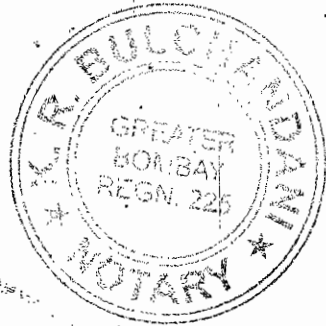
80

20

writing of the lessor. The lessor will be at liberty to refuse such consent or grant it subject to such terms and conditions, as the lessor may in his absolute discretion think fit including a condition requiring payment of such license fees as may be prescribed by the lessor from time to time.

vii) That the lessee shall not directly or indirectly transfer, assign, encumber, mortgage land or part with its interest under or benefit of this lease of land in manner hereof, without the previous consent in writing of the Government. Government will be free to refuse such consent or grant it subject to such conditions including a condition regarding the payment of premium as Government may in its absolute discretion think fit. However this condition is subject to clause 2 hereinafter and shall not be applicable to the lease in case of its transfer, assign, encumbers, mortgages or parts with its interest in respect of the structure/structures.

viii) At the expiration or sooner determination of the said term quietly deliver up to the lessor the demised premises and all erections and buildings then standing or being thereon provided always that the lessees shall be at liberty to retain the premises if they have paid the lease rent due and all Municipal and other taxes, rates and assessments then due and have duly performed and observed the covenants and conditions herein contained. In case of sooner expiration of the said term, to remove and appropriate to themselves buildings, erections, and structures and material from the said land but so nevertheless that the lessees shall deliver up as aforesaid to the lessor leveled land and put in good order and condition to the satisfaction of the lessor all land from which such buildings, erections or structures may have been removed.





21

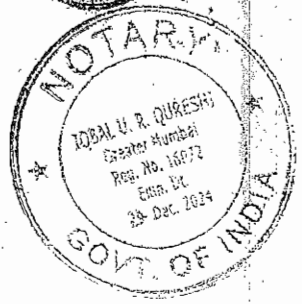
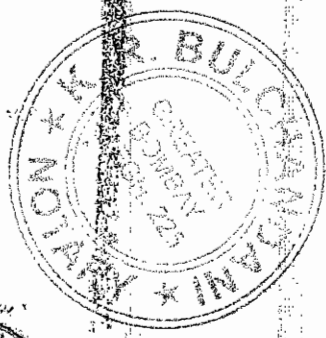
To abide by all other relevant provisions of Maharashtra Land Revenue Code, 1966 (Mah. Act. No. XLI of 1966) and the rules made thereunder and any amendments thereof.

In the event of dissolution of the lessee Company, the person to whom the title shall be transferred as successors or otherwise shall cause notice thereof to be given to the lessor within three months from such dissolution.

To bear and pay all costs, charges and expenses of and incidental to drawing, engrossing and completing this lease and its duplicate and matters arising there from including stamp duty, registration charges and costs of all correspondence with the Collector or otherwise and also the cost of one additional copy of the lease, such cost shall be paid by the lessees according to the scale of fees for attorneys prescribed by the High Court of Judicature of Mumbai.

If and whenever any part of the rent hereby reserved shall be in arrears the same may be recovered from the lessees as arrears of land revenue under the provisions of the Maharashtra Land Revenue Code, 1966 (Mah. Act. XLI of 1966) and any amendments thereof.

If the said rent hereby reserved shall be in arrears for the space of thirty days whether the same shall have been legally demanded or not or if and whenever there shall be a breach by the lessees of any of the covenants and conditions here before contained the lessor may re-enters upon any part of the demised premise and thereupon the said term hereby granted and right to renewal thereof shall absolutely cease and determine and in that event no compensation shall be payable to the lessees on account of the building or improvement built or made. Provided always that except for non-payment of rent as aforesaid the power of re-entry herebefore contained shall not be exercised unless and until the lessor or the Collector on behalf of the lessor shall have given to the lessees or left on some part of the demised premises a notice in writing of his intention to



82

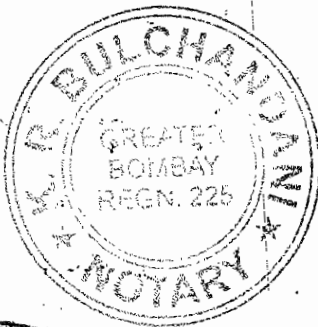
22

enter and of the specific breach of covenant in respect of which the remedy is intended to be made and default shall have been made by the lessees in remedying such breach or breaches within a reasonable time after giving of such notice.

16) The lessor doth hereby covenant with the lessees that the lessees duly paying the rent hereby reserved and duly observing and performing the covenants and conditions hereinbefore, on the lessees part contained shall and may peaceably enjoy the demised premises for the said term hereby granted without any interruption or disturbance from or by the lessor or any person or persons lawfully claiming by from or under the lessor.

17) The Collector on behalf of the lessor may at his option appropriate the said deposit of Rs.50000/- or any part thereof in or towards satisfaction of any sum due under this lease and for any claims or demands whatsoever (whether liquidated or not) which may at any time be made or have been made on behalf of the lessor from or against the lessees under this lease or against the lessor in respect thereof. The lessees shall always maintain the said original amount of deposit and shall within 15 days of their being called upon to do so deposit further cash or Government securities to make up the original amount of deposit as and when required by the Collector to do so. Upon due compliance by the lessees with all their obligations under this lease the said deposit or such part thereof as shall not have been appropriated as aforesaid shall be paid or transferred to the lessees. The right of forfeiture of deposit will be in addition to and without prejudice to any other rights and remedies of the lessor against the lessees.

18) If the lessees shall have duly performed and observed the covenants and conditions on the part of the lessees hereinbefore contained and shall at the end of the said term hereby granted be desirous of receiving a new lease of the demised



39/571

23

premises and of such desire shall give notice in writing to the lessor six months before the expiration of the lease hereby granted then the lessor shall and will at the cost and expense in every respect of the lessees, grant to the lessees a new lease of the demised premises for a further term of thirty years with the covenants, provisions and stipulations as are hereinbefore contained save and except this covenant for renewal and further that on such renewal such yearly rent shall be reserved whether the same be decreased or increased as the lessor shall then determine.

19) The lessee is subject to the condition of planting of 45 trees of suitable species and maintaining them throughout on the land in accordance with Rule 52 of the Maharashtra Land Revenue (Disposal of Govt. Land) Rules 1971.

20) That the land with structure thereon will be liable to be resumed to Government without payment of any compensation for breach of the above conditions.

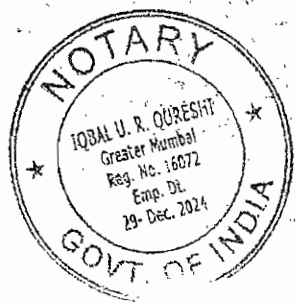
21) This agreement needs to be registered with the Office of the Sub-Registrar and Cost of the same to be paid by the lessee.

IN WITNESS WHEREOF the Governor of Maharashtra hath caused the Collector of Mumbai Suburban District to set his hand and affix his official seal on his behalf, and the Lessee has set his hand and Seal (if any) hereunto on his behalf the date and year first above written.

THE SCHEDULE OF THE PROPERTY REFERRED TO:

The plot & pieces of land adrn 4515 sq. mtrs from Survey No. 341-A of Bandra, Taluka Andheri, Mumbai Suburban District and more particularly described as shown in the accompanying plan and bounded as follows:

On or towards East by: 60ft existing road



82

30/5/01

24

On or towards West by: S.No 341A (pt), New Administrative Building

On or towards North by: BEST Bus depot

On or towards South by: 90ft wide existing road

SIGNED AND DELIVERED by the within named Lessor The S. S. Zende Collector, of the Mumbai Suburban District in the presence of

*[Signature]*  
COLLECTOR  
Mumbai Suburban District



Witness:  
1. *[Signature]*  
2. *[Signature]*



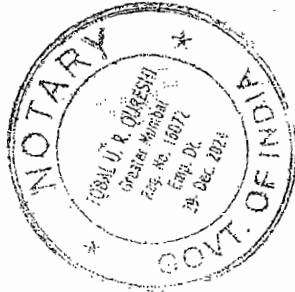
SIGNED AND DELIVERED by the within named Lessee

M/S. MAHARASHTRA THEATRE, PVT. LTD. (KALAMANDIR) pursuant to the Resolution of the Board of Directors of the said company passed at its meeting duly convened and held on the day of

*[Signature]*  
Director, Managing Director

and held on the day of hereby attested in the presence of  
Witness:

1. *[Signature]*  
2. *[Signature]*



True Copy

*[Signature]*  
Advocate For Plaintiffs / Petitioners

Exhibit - H

Amended 45/85

BRIHANMUMBAI MAHANAGARPALIKA

NO. CE/6633/BSII/AH/E

7 JUL 2006

FULL OCCUPANCY CERTIFICATE

To,  
M/s. Maharashtra Theatre Pvt. Ltd.,  
Bandra [East],  
Mumbai 400 051.

Ex. Engineer Bldg. Proposal (77.5.)  
H and K - Wards,  
Municipal Office, B. K. Paikar Marg,  
Bandra (West), Mumbai-400 050.

Sir,

The full development work of commercial building comprising of basement for store, Cinema Theatre, Bank and office on ground floor, podium for parking, 1<sup>st</sup> to 3<sup>rd</sup>, 6<sup>th</sup> (Pt), 7<sup>th</sup> (Pt) and 8 (Pt) upper floors for offices, situated on plot bearing CTS No. 629/1252 of Village, Sant Gyaneshwar road, Bandra [East] is completed under the supervision of Architect Shri Naren Kuwadekar, Architect License No.CA/85/9399, may be occupied on the following conditions:

- 1) That the Cft. under section 270-A of B.M.C. Act shall be obtained from D.E. and a certified true copy of the same shall be submitted to this office within three months from the date of issue of occupations Cft.
  - 2) This occupancy cft. is granted without prejudice to any action initiated under section 353-A/471 of B.M.C. Act.
  - 3) That 4 Nos. of lift for which Lift Inspector NOC is not obtained will not be operated without obtaining Lift Inspector's Certificate.
  - 4) That the Lift Inspector's Certificate for the remaining 4 Nos. of lift will be submitted within 3 months or BCC whichever is earlier.
  - 5) That the NOC from Police Commissioner, PWD & CFO shall be submitted before starting the cinema theatre.
  - 6) That the NOC from S.G. & BSES shall be submitted before B.C.C. or 3 months whichever is earlier.
  - 7) That R.U.T. for the compliance of above conditions 4,5 & 6 shall be submitted.
- A set of certified completion plan is attached herewith.

CERTIFIED TRUE COPY

SHRI NAREN KUWADEKAR & ASSOCIATES  
Architects and Engineers  
Bandra East, Mumbai - 400 051

Yours faithfully,

*sd*

Executive Engineer Building Proposal  
(Western Suburbs) H & K/East Wards

7 JUL 2006

- 1) Architect : Shri Naren Kuwadekar
  - 2) E.E.D.P.
  - 3) E.E.(Vig.)W.S.
  - 4) Dy.A.A.& C.(S)
  - 5) Sup. H/E Ward.
  - 6) A.E.W.W. H/E Ward
  - 7) Asst. Commissioner, H/E Ward
- forwarded for information please.

Documents/Occupation/6633-Full C.C. doc

*sd*  
E.E.B.P.(W.S.)



True Copy

## Exhibit I.

विविध व्यक्ती, संस्था आणि कंपनी यांना विविध प्रयोजनार्थ कब्जेहक्काने अथवा भाडेपट्ट्याने प्रदान करण्यात आलेल्या शासकीय जमिनीवरील इमारत बांधकामासाठी मुदतवाढ देण्याबाबत धोरणात्मक निर्देश.....

महाराष्ट्र शासन

महसूल व वन विभाग

शासन निर्णय क्रमांक: जमीन-२०१६/प्र.क्र.२५४/ज-१

मादाम कामा मार्ग, हुतात्मा राजगुरु चौक,

मंत्रालय, मुंबई - ४०० ०३२.

दिनांक : ११ जानेवारी, २०१७



**वाचा:-**

१. महाराष्ट्र जमीन महसूल संहिता, १९६६ चे कलम १३, २९, ३८ व ४०
२. महाराष्ट्र जमीन महसूल (सरकारी जमिनींची विल्हेवाट करणे) नियम १९७१
३. शासन निर्णय, महसूल विभाग, क्र. एलएनडी-४८५७/ १६९१४६- AI, दिनांक २१.११.१९५७

**प्रस्तावना :-**

स्वातंत्र्यपूर्व काळात तसेच महाराष्ट्र जमीन महसूल संहिता, १९६६ अस्तित्वात येण्यापूर्वी राज्यातील शासकीय जमिनी विविध व्यक्ती, संस्था अथवा कंपनी यांना विविध प्रयोजनार्थ कब्जेहक्काने अथवा भाडेपट्ट्याने प्रदान करण्यात आलेल्या आहेत. तद्वतच महाराष्ट्र जमीन महसूल संहिता, १९६६ आणि महाराष्ट्र जमीन महसूल (सरकारी जमिनींची विल्हेवाट करणे) नियम १९७१ मधील तरतूदीनुसार ही शासकीय जमीन विविध व्यक्ती, संस्था अथवा कंपनी यांना विविध प्रयोजनार्थ कब्जेहक्काने अथवा भाडेपट्ट्याने वेळोवेळी प्रदान करण्यात आलेल्या आहेत. प्रदान करण्यात आलेल्या शासकीय जमिनींचा संबंधितांकडून शीघ्र गतीने वापर होऊन त्यातून राज्याचा सामाजिक व आर्थिक विकास व्हावा या उद्देशाने अशा शासकीय जमिनी मंजूर प्रयोजनार्थ अविलंब विकसित करण्याकामी त्यावर इमारत बांधकाम करण्यासाठी कालावधी विहित करण्यात येतो.

महाराष्ट्र जमीन महसूल (सरकारी जमिनींची विल्हेवाट करणे), नियम १९७१ च्या नियम ४१ मध्ये प्रदान करण्यात आलेल्या शासकीय जमिनीवरील बांधकामाबाबत पुढीलप्रमाणे तरतूद आहे:-

**“जमीन मिळाल्याच्या तारखेपासून ३ वर्षांच्या आत (अथवा जिल्हाधिकारी परवानगी देईल अशी आणखी मुदत) प्रतिग्रहीता जमिनीवर भरीव व कायमस्वरुपाची इमारत उभारील. यात कसूर झाली तर, प्रतिग्रहीताकडून देण्यात आलेल्या भोगवटा किंमतीपेक्षा अधिक नसेल इतकी नुकसानभरपाई दिल्यानंतर ती जमीन परत घेतली जाण्यास पात्र असेल.”**

मात्र, उक्त तरतूद अस्तित्वात येण्यापूर्वीपासून प्रदान केलेल्या शासकीय जमिनीवरील शर्तभंगाची प्रकरणे नियमानुकूल करणे व इमारत बांधकामास मुदतवाढ देणे याबाबत शासन निर्णय, महसूल विभाग,

क्र. एलएनडी-४८५७/ १६९१४६-AI, दिनांक २१.११.१९५७ अन्वये सविस्तर सूचना देण्यात आलेल्या आहेत. सदर शासन निर्णय आजमितीस देखील अस्तित्वात आहे. या शासन निर्णयाच्या परिच्छेद-२ च्या निर्देशातील मुद्दा क्र.(४) नुसार जमीन प्रदान केलेल्या तारखेच्या अकृषिक साऱ्याच्या १० पट अथवा, यथास्थिती २० पट अधिमूल्य आकारून इमारतीच्या बांधकामासाठी जिल्हाधिकार्यांच्या स्तरावरून २ वर्षे मुदतवाढ देण्याची तरतूद आहे. उक्त शासन निर्णयाच्या परिच्छेद-५ मध्ये असलेल्या तरतुदीच्या अनुषंगाने २ वर्षांनंतर बांधकाम मुदतवाढ देण्याची प्रकरणे जिल्हाधिकार्यांकडून शासनाकडे प्राप्त होतात. इमारत बांधकामासाठी मुदतवाढ देणे तसेच शर्तभंग नियमानुकूल करणे, याकरिता अधिमूल्य आकारण्याबाबत वेगवेगळ्या परिस्थितीमध्ये अधिमूल्याचे वेगवेगळे दर सदर शासन निर्णयान्वये निर्धारित करण्यात आलेले आहेत. तसेच सदर शासन निर्णयामध्ये इमारत बांधकामासाठी कमाल किती कालावधीसाठी आणि किती वेळा मुदतवाढ द्यावी, याबाबत कोणतीही स्पष्ट तरतूद नाही.

सद्यःस्थितीत उक्त नमूद दिनांक २१.११.१९५७ रोजीच्या शासन निर्णयातील मार्गदर्शक तत्वे विचारात घेऊन त्यामधील तरतुदीनुसार प्रकरणपरत्वे परिस्थितीनुसार अधिमूल्याची रक्कम आकारून इमारत बांधकामासाठी मुदतवाढ देण्याची प्रकरणे शासनाकडून निर्णित करण्यात येतात. अशा प्रकरणांच्या अनुषंगाने असे निदर्शनास आले आहे की, संबंधित व्यक्ती अथवा संस्थेस शासकीय जमीन प्रदान झाल्यानंतर अशा जमिनीवर इमारतीचे बांधकाम संबंधित जमीन प्रदानाच्या आदेशामध्ये नमूद केलेल्या कालावधीत पूर्ण करणे अपेक्षित असताना अनेक प्रकरणी असे बांधकाम विहित मुदतीत न झाल्याने बांधकामास मुदतवाढीचे प्रस्ताव शासनास प्राप्त होतात. बऱ्याच वेळा इमारत बांधकामासाठी मुदतवाढीचे प्रस्ताव विलंबाने प्राप्त होतात अथवा शर्तभंग तपासणीच्या अनुषंगाने झालेल्या कार्यवाहीच्या वेळी निदर्शनास येतात. उक्त शासन निर्णयान्वये बांधकामासाठी मुदतवाढ देताना आकारावयाच्या अधिमूल्याचे दर सद्यःस्थितीत अतिशय कमी/नगण्य असल्याने तसेच कालांतराने जमिनीच्या किंमतीमध्ये मोठ्या प्रमाणावर वाढ होऊन प्रतिग्राहित्यास मोठ्या प्रमाणावर आर्थिक फायदा जमिनीच्या किंमतवाढीमुळे प्राप्त होत असल्याने बांधकाम विहित कालावधीमध्ये पूर्ण करण्याकडे संबंधित व्यक्ती/संस्थेचा कल दिसून येत नाही किंवा जमिनीचा लवकर उपयोग करण्याची तत्परता दिसून येत नाही. परिणामी, विहित मुदतीत शासकीय जमिनीचा विकास न झाल्यामुळे अपेक्षित सामाजिक/आर्थिक विकास साध्य होत नाही.

या पार्श्वभूमीवर, महाराष्ट्र जमीन महसूल संहिता, १९६६ आणि महाराष्ट्र जमीन महसूल (सरकारी जमिनीची विल्हेवाट करणे) नियम १९७१ मधील तरतुदीनुसार किंवा तत्पूर्वी विविधव्यक्ती, संस्था अथवा कंपनी यांना विविध प्रयोजनार्थ कब्जेहक्काने अथवा भाडेपट्ट्याने प्रदान करण्यात आलेल्या शासकीय जमिनींवरील इमारत बांधकामासाठी मुदतवाढ देण्याबाबत सुधारित धोरण आखणे क्रमप्राप्त झाले असून, या संदर्भात पुढीलप्रमाणे निर्णय घेण्यात येत आहे.



**शासन निर्णय:-**

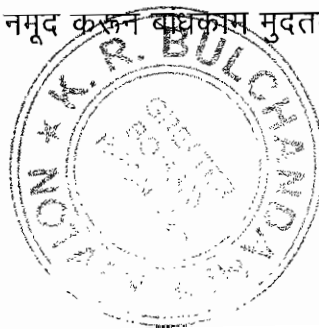
महाराष्ट्र जमीन महसूल संहिता, १९६६ आणि महाराष्ट्र जमीन महसूल (सरकारी जमिनींची विल्हेवाट करणे) नियम १९७१ मधील तरतूदीनुसार किंवा तत्पूर्वी विविध व्यक्ती, संस्था अथवा कंपनी यांना शासनाकडून विविध प्रयोजनार्थ कब्जेहक्काने अथवा भाडेपट्ट्याने प्रदान करण्यात आलेल्या शासकीय जमिनींवरील इमारत बांधकामासाठी मुदतवाढ देण्याकामी यापुढे खालीलप्रमाणे कार्यवाही करण्यास या शासन निर्णयाद्वारे निर्देशित करण्यात येत आहे :-

(i) महाराष्ट्र जमीन महसूल (सरकारी जमिनींची विल्हेवाट करणे), नियम १९७१ च्या नियम ४१ मधील तरतूदीस अनुलक्षून यापुढे कब्जाहक्काने / भाडेपट्ट्याने प्रदान करण्यात आलेल्या शासकीय जमिनींवरील बांधकामाबाबत जमीन प्रदानाच्या आदेशामध्ये जमिनीचा प्रत्यक्ष ताबा दिल्यापासून ३ वर्षांच्या आत इमारत बांधकाम पूर्ण करण्यात यावे अशी अट समाविष्ट करण्यात यावी.

(ii) संबंधित व्यक्ती/संस्था यांनी शासकीय जमीन प्रदान आदेशात नमूद केलेल्या कालावधीत इमारत बांधकाम पूर्ण न केल्यास, त्यांनी अशा इमारत बांधकामासाठी जिल्हाधिकारी यांच्याकडून मुदतवाढ प्राप्त करून घेणे अनिवार्य राहिल. संबंधित जिल्हाधिकारी यांच्या स्तरावरून अशी मुदतवाढ मंजूर करताना खालील नमूद दराप्रमाणे अधिमूल्य आकारण्यात यावे:-

अ.क्र.	बांधकाम मुदतवाढीचा कालावधी	मुदतवाढीसाठी आकारावयाच्या अधिमूल्याचा दर	बांधकाम मुदतवाढीस मान्यता देण्यास सक्षम प्राधिकारी
१	मूळ मंजूर कालावधीनंतर प्रथम मुदतवाढ २ वर्षे	प्रचलित वार्षिक दर विवरणपत्रानुसार संबंधित जमिनीच्या येणाऱ्या किंमतीच्या २ % प्रतिवर्ष	संबंधित जिल्हाधिकारी
२	द्वितीय मुदतवाढ २ वर्षे	प्रचलित वार्षिक दर विवरणपत्रानुसार संबंधित जमिनीच्या येणाऱ्या किंमतीच्या ३ % प्रतिवर्ष	संबंधित जिल्हाधिकारी
३	तृतीय मुदतवाढ २ वर्षे	प्रचलित वार्षिक दर विवरणपत्रानुसार संबंधित जमिनीच्या येणाऱ्या किंमतीच्या ५ % प्रतिवर्ष	संबंधित जिल्हाधिकारी
४	चौथी मुदतवाढ २ वर्षे	प्रचलित वार्षिक दर विवरणपत्रानुसार संबंधित जमिनीच्या येणाऱ्या किंमतीच्या ७ % प्रतिवर्ष	संबंधित जिल्हाधिकारी
५	पाचवी मुदतवाढ २ वर्षे	प्रचलित वार्षिक दर विवरणपत्रानुसार संबंधित जमिनीच्या येणाऱ्या किंमतीच्या १० % प्रतिवर्ष	संबंधित जिल्हाधिकारी

मात्र, संबंधित अर्जदार व्यक्ती/संस्था यांनी जिल्हाधिकारी यांच्याकडे मुदतवाढीसाठी केलेल्या अर्जात नमूद केलेले कारण त्यांच्या आवाक्याबाहेरील अथवा हाताबाहेरील असल्याची जिल्हाधिकार्यांची खात्री होत असल्यास तसे कारणांसह लेखी नमूद करून बांधकाम मुदतवाढीपोटी अधिमूल्यासाठी उक्त नमूद दरांच्या निम्मे दर आकारण्यात यावेत.





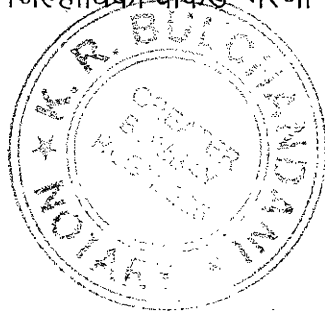
(iii) ज्या प्रकरणांमध्ये एकूण मंजूर कालावधी (म्हणजेच मूळ मंजूर कालावधी अधिक मंजूर मुदतवाढीचा कालावधी) संपुष्टात आल्यानंतर देखील संबंधित जमिनीवरील इमारतीचे बांधकाम नियोजन प्राधिकरणाच्या / सक्षम प्राधिकार्याच्या परवानगीने सुरु होऊनही अर्धवट असेल किंवा अशा बांधकामाचा पूर्णत्वाचा दाखला संबंधित नियोजन प्राधिकरणाकडून/सक्षम प्राधिकार्याकडून प्राप्त झालेला नसेल अशा प्रकरणी बांधकाम पूर्णत्वाचा दाखला प्राप्त होईपर्यंत संबंधित व्यक्ती अथवा संस्था यांना त्या त्या वर्षाच्या वार्षिक दर विवरणपत्रानुसार संबंधित जमिनीच्या येणाऱ्या किंमतीच्या १२% या दराने प्रतिवर्ष याप्रमाणे अधिमूल्य जिल्हाधिकार्याकडे भरणा करण्याच्या अटीवर मुदतवाढ अनुज्ञेय राहिल.

(iv) ज्या व्यक्ती अथवा संस्था जमीन प्रदान आदेशात बांधकामासाठी विहित केलेल्या मूळ कालावधीत किंवा मंजूर वाढीव कालावधीत, सदर कालावधी संपुष्टात येण्याच्या आत, बांधकाम मुदतवाढीस अर्ज दाखल करणार नाहीत, अशा व्यक्ती अथवा संस्थांच्या बाबतीत मुदतवाढ अर्जाच्या विलंबापोटी प्रचलित वार्षिक दर विवरणपत्रानुसार संबंधित जमिनीच्या येणाऱ्या किंमतीच्या १ % इतके विलंब शुल्क देखील आकारण्यात यावे.

(v) वरीलप्रमाणे मुदतवाढ दिल्यानंतरही संबंधित नियोजन प्राधिकरणाकडून/सक्षम प्राधिकार्याकडून विकास परवानगी प्राप्त करून बांधकाम सुरु करण्यात आले नाही, तर अशी शासकीय जमीन आहे त्या परिस्थितीत महाराष्ट्र जमीन महसूल (सरकारी जमिनीची विल्हेवाट करणे) नियम १९७१ च्या नियम ४१ प्रमाणे शासन जमा करण्यात यावी व प्रतिग्रहीताकडून देण्यात आलेल्या भोगवटा किंमतीपेक्षा अधिक नसेल इतकी नुकसान भरपाईची रक्कम त्यास प्रदान करण्यात यावी.

(vi) प्रस्तुत शासन निर्णय निर्गमित झाल्याच्या दिनांकास ज्या प्रकरणात इमारत बांधकाम संबंधित नियोजन प्राधिकरणाच्या/सक्षम प्राधिकार्याच्या परवानगीने सुरु होऊनही पूर्ण झाले नसेल आणि इमारत बांधकाम पूर्ण करण्यासाठी मूळ व मंजूर वाढीव कालावधी पूर्ण झाला असेल, अशा प्रकरणी संबंधित व्यक्ती अथवा संस्था यांना आणखी २ वर्षांची मुदतवाढ देण्याची विनंती जिल्हाधिकार्याकडे हे धोरण लागू झाल्यापासून ६ महिन्यात करता येईल. असा अर्ज प्राप्त झाल्यानंतर प्रथम इमारत बांधकाम पूर्ण करण्यासाठीची विहित मुळ व मंजूर वाढीव मुदत संपलेल्या दिनांकापासून प्रस्तुत शासन निर्णयाच्या दिनांकापर्यंत काल्पनिक मुदतवाढ (Notional extension of time) ही ज्यावेळी मुदतवाढ देण्याचे आदेश निर्गमित करण्यात येतील, त्या वर्षाच्या संबंधित जमिनीच्या अकृषिक सान्याच्या १० पट इतकी रक्कम वसूल करून देण्यात यावी व त्यापुढील दोन वर्षांपर्यंतची मुदतवाढ संबंधित जमिनीच्या प्रचलित वार्षिक दर विवरणपत्रानुसार येणाऱ्या किंमतीच्या १० % या दराने प्रतिवर्ष अधिमूल्य आणि अशा किंमतीच्या १% इतके एक रकमी विलंब शुल्क आकारून व वसूल करून देण्यात यावी.

अशी मुदतवाढ दिल्यानंतर देखील जर बांधकाम पूर्ण झाले नाही तर, अशा बांधकामाचा पूर्णत्वाचा दाखला संबंधित नियोजित प्राधिकरणाकडून/सक्षम प्राधिकार्याकडून प्राप्त होईपर्यंत संबंधित व्यक्ती अथवा संस्था यांना त्या त्या वर्षाच्या वार्षिक दर विवरणपत्रानुसार संबंधित जमिनीच्या येणाऱ्या किंमतीच्या १२% प्रतिवर्ष याप्रमाणे अधिमूल्य जिल्हाधिकार्याकडे भरणा करण्याच्या अटीवर मुदतवाढ अनुज्ञेय राहिल.



(vii) प्रस्तुत शासन निर्णय निर्गमित झाल्याच्या दिनांकास ज्या प्रकरणात नियोजन प्राधिकरणाची/सक्षम प्राधिकार्याची मान्यता मिळवून इमारत बांधकाम सुरुच झाले नसेल आणि इमारत बांधकाम पूर्ण करण्यासाठी मुळ व मंजूर वाढीव कालावधी देखील पूर्ण झाला असेल, अशा प्रकरणी संबंधित व्यक्ती अथवा संस्था यांना आणखी २ वर्षांची शेवटची मुदतवाढ देण्याची विनंती जिल्हाधिकार्याकडे हे धोरण लागू झाल्यापासून ६ महिन्यात करता येईल. असा अर्ज प्राप्त झाल्यानंतर प्रथम इमारत बांधकाम पूर्ण करण्यासाठीची विहित मुळ व मंजूर वाढीव मुदत संपलेल्या दिनांकापासून प्रस्तुत शासन निर्णयाच्या दिनांकापर्यंत काल्पनिक मुदतवाढ (Notional extension of time) ही ज्यावेळी मुदतवाढ देण्याचे आदेश निर्गमित करण्यात येतील, त्या वर्षाच्या संबंधित जमिनीच्या अकृषिक सान्याच्या २० पट इतकी रक्कम वसूल करून देण्यात यावी व त्यापुढील दोन वर्षांपर्यंतची मुदतवाढ संबंधित जमिनीच्या प्रचलित वार्षिक दर विवरणपत्रानुसार येणाऱ्या किंमतीच्या १० % या दराने प्रतिवर्ष अधिमूल्य व अशा किंमतीच्या १% इतके एक रकमी विलंब शुल्क आकारून व वसूल करून देण्यात यावी.

अशी मुदतवाढ दिल्यानंतर देखील जर बांधकाम सुरु झाले नाही, तर अशी शासकीय जमीन आहे त्यापरिस्थितीत उक्त नियम ४१ प्रमाणे शासन जमा करण्यात यावी व प्रतिग्रहीताकडून देण्यात आलेल्या भोगवटा किंमतीपेक्षा अधिक नसेल इतकी नुकसानभरपाईची रक्कम त्यास प्रदान करण्यात यावी.

मात्र अशी मुदतवाढ दिल्यानंतर जर सक्षम प्राधिकार्याची मान्यता घेऊन बांधकाम सुरु झाले असेल मात्र बांधकाम पूर्ण झाले नाही, तर अशा बांधकामाचा पूर्णत्वाचा दाखला संबंधित सक्षम प्राधिकार्याकडून प्राप्त होईपर्यंत संबंधित व्यक्ती अथवा संस्था यांना त्या त्या वर्षाच्या वार्षिक दर विवरणपत्रानुसार संबंधित जमिनीच्या येणाऱ्या किंमतीच्या १२% प्रतिवर्ष याप्रमाणे अधिमूल्य जिल्हाधिकार्याकडे भरणा करण्याच्या अटीवर मुदतवाढ अनुज्ञेय राहिल.

(viii) उक्त नमूद (v) व (vii) प्रमाणे ज्या प्रकरणी इमारत बांधकाम विहित मुदतीत सुरु न झाल्यामुळे संबंधित शासकीय जमीन शासन जमा करण्याचे आदेश काढण्यात आले असतील, अशा प्रकरणी संबंधित व्यक्ती अथवा संस्था यांना जमीन शासन जमा करण्याच्या आदेशाच्या प्राप्तीच्या दिनांकापासून ३ महिन्यांच्या कालावधीत अर्ज करून अशी जमीन पुर्नप्रदान/पुर्नदानित करण्याची विनंती शासनाकडे करता येईल. असा अर्ज प्राप्त झाल्यानंतर संबंधित व्यक्ती अथवा संस्थेला त्यावेळी प्रचलित असलेल्या शासनाच्या धोरणाप्रमाणे संबंधित जमीन पुर्नप्रदान/पुर्नदानित करण्याबाबत शासन गुणवत्तेनुसार निर्णय घेईल.

(ix) महाराष्ट्र जमीन महसूल (सरकारी जमिनीची विल्हेवाट करणे), नियम १९७१ अन्वये राज्यातील शासकीय जमिनी कब्जेहक्काने अथवा भाडेपट्ट्याने प्रदान करण्यात येतात. या नियमांखाली प्रदान केलेल्या शासकीय जमिनींना सदर नियमातील तरतुदी लागू होतात. त्यामुळे या नियमांतर्गत, ज्या व्यक्ती / संस्था यांना शासकीय जमिनी कब्जेहक्काने / भाडेपट्ट्याने प्रदान करण्यात आलेल्या आहेत, तथापि, त्यांच्या जमीन प्रदान आदेशात, करारनाम्यात अथवा सनदेमध्ये इमारत बांधकाम पूर्ण करण्यासाठीचा कालावधी नमूद करण्यात आलेला नाही, त्यांना देखील उक्त नियमांतील नियम ४१ ची तरतूद लागू असल्याने अशा प्रकरणीही उक्त निर्देशांप्रमाणे इमारत बांधकाम मुदतवाढ प्राप्त करून घेणे अनिवार्य राहिल.



०२. सदर शासन निर्णय वित्त विभागाचा अनौपचारिक संदर्भ क्र.२७८/व्यय-९, दि.२९.९.२०१६ अन्वये दिलेल्या सहमतीने निर्गमित करण्यात येत आहे.

सदर शासन निर्णय महाराष्ट्र शासनाच्या [www.maharashtra.gov.in](http://www.maharashtra.gov.in) या संकेतस्थळावर उपलब्ध करण्यात आला असून त्याचा संकेतांक २०१७०११११३५६५८५३१९ असा आहे. हा आदेश डिजीटल स्वाक्षरीने साक्षांकित करून काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

**Rajendra  
Kshirsagar**

Digitally signed by Rajendra Kshirsagar  
DN: c=IN, o=Government Of Maharashtra,  
ou=Revenue And Forest Dept,  
postalCode=400032, st=Maharashtra,  
2.5.4.20=3e673df1a1f6243d932fcb8679f8c  
d85d90c61495ae8b4592f8dccc5b8a851a8,  
cn=Rajendra Kshirsagar  
Date: 2017.01.11 16:08:41 +05'30'

(राजेंद्र क्षीरसागर)  
उप सचिव (महसूल)

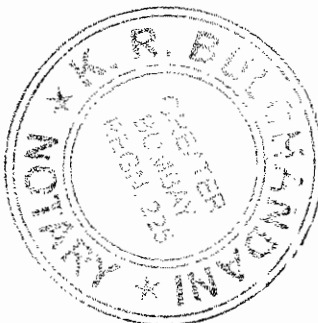
प्रत,

- १) मा.राज्यपाल, महाराष्ट्र राज्य यांचे सचिव, राजभवन, मलबार हिल, मुंबई.
- २) मा.मुख्यमंत्री यांचे प्रधान सचिव, मुख्यमंत्री सचिवालय, मंत्रालय, मुंबई-३२
- ३) मा.मंत्री (महसूल) यांचे खाजगी सचिव, मंत्रालय, मुंबई-३२.
- ४) मा.राज्यमंत्री (महसूल) यांचे खाजगी सचिव, मंत्रालय, मुंबई-३२.
- ५) मा.मुख्य सचिव, महाराष्ट्र शासन, मंत्रालय, मुंबई-३२.
- ६) अपर मुख्य सचिव (वित्त), वित्त विभाग, मंत्रालय, मुंबई-३२.
- ७) महालेखापाल (लेखापरीक्षा) (लेखा व अनुज्ञयेता), महाराष्ट्र राज्य, मुंबई/नागपूर
- ८) प्रधान सचिव (महसूल) यांचे वि.का.अ./स्वीय सहायक, मंत्रालय, मुंबई.
- ९) प्रधान सचिव, विधानमंडळ सचिवालय, विधानभवन, मुंबई.
- १०) सर्व विभागीय आयुक्त.
- ११) जमाबंदी आयुक्त व संचालक, भूमी अभिलेख, महाराष्ट्र राज्य, पुणे.
- १२) सर्व जिल्हाधिकारी/अपर जिल्हाधिकारी.
- १३) माहिती व जनसंपर्क संचालनालय, मंत्रालय, मुंबई-३२.
- १४) उप सचिव(ज-१/ल-१), महसूल व वन विभाग, मंत्रालय, मुंबई.
- १५) मंत्रालयीन सर्व प्रशासकीय विभाग,
- १६) "ज" समूहातील सर्व सहसचिव/उपसचिव/कक्ष अधिकारी, महसूल व वन विभाग, मंत्रालय, मुंबई.
- १७) निवड नस्ती (कार्यासन ज-१)

**True Copy**

Advocate Engr. R. S. Retitioner

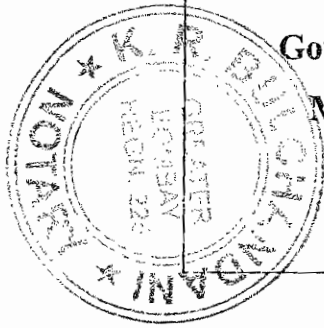
Advocate Engr. R. S. Retitioner



पृष्ठ ६ पैकी ६

**Exhibit -I-1**

	The Policy Instructions Regarding giving extension in time for doing construction of the building on the government land given on lease or possessory rights to the various persons, society and company for various purposes.
<p style="text-align: center;">Government of Maharashtra, Revenue and Forest Department <b>Government Resolution No: Land -2016/C.N.254/L-1</b> <b>Madam Kama Marg, Hutatma Rajguru Chowk,</b> Mantralaya, Mumbai -400032 Date - 11 January, 2017</p>	



Read :-	1. The section 13, 29, 38 and 40 of the Maharashtra Land Revenue Code, 1966.
	2. Maharashtra Land Code (Disposal of Government Lands), Rule 1971.
	3. Government Decision, Revenue Department, No.LND-4857/169146-AI, dated 21/11/1957

In the pre-independence era and prior to the Maharashtra Land Revenue Code, 1966 came into existence, government lands in the state were granted to various individuals, institutions or

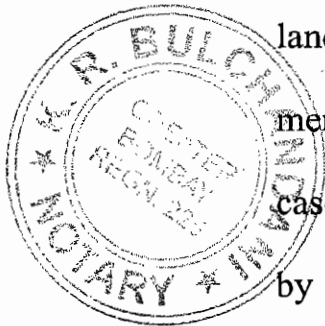
companies for various purposes either by right of occupancy or on lease. Accordingly, as per the provisions of the Maharashtra Land Revenue Code, 1966 and the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971, these Government lands have been allotted from time to time to various individuals, organizations or companies on occupancy or lease basis for various purposes. In order to speedy utilization of the allotted government lands, by the concerned parties and the social and economic development of the state, a period is prescribed for the immediate development of such government lands for the sanctioned purpose and construction of buildings thereon.

Regarding construction on Government land rule 41 of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971 provides as follows regarding

“Within 3 years from the date of acquisition of land (or such further period as the Collector may allow) the allottee shall erect a substantial and permanent building on the land. In default of this, the land shall be entitled to be repossessed after payment of compensation not exceeding than that of the occupancy price paid/given by allottee.”



However, regarding the regularization of cases of breach of condition on government land allotted prior the said provision came into existence and the extension of time for building construction, the detailed instruction have been issued vide the government decision, Revenue Department, bearing No.LND-4857/169146-AI, dated 21/11/1957. The said government decision is still in existence today. As per point no.(4) of the directives of paragraph-2 of this government decision, there is a provision at District Collector Level for extending the period of 2 years for the construction of the building by assessing a premium of 10 times (or, as the case may be, 20 times) on the non-agricultural tax of the land on the date of allotment. According to the provision mentioned in the Para No.2 of the said Government Resolution, the cases of extension of construction period after 2 years are received by the Government from the district collector. Regarding the extension of time for building construction as well as compliance with the rules and regulations, different rates of surcharge have been determined in different situations for this purpose. In the said government resolution, there is no clear provision regarding extension of time i.e. maximum duration and numbers of extension for constructing the building.



At present, taking into consideration the guidelines of the said government decision dated 21.11.1957, the cases of extension of time for building construction are decided by the government by assessing premium case-by-case basis, as per the provisions of the decision. According to such cases, it has been pointed out that after the government land is allotted to the concerned person or organization, the construction of the building on such land is expected to be completed within the period specified in the relevant land allotment order, however, many times proposal regarding extension in time limit are received on account of not constructing the building in specified time. On many times, extension proposals for building construction are received late or come to light during the during inspection proceedings held on account of violation of terms. As the rate of premium to be charged while extending the time for construction as per the said government decision is very low/negligible at present, and also if the land price is increased by a large amount over time, a large amount of financial benefit is obtained by the allottee due to the increase in the price of the land and hence there is no inclination of the concerned person/organization to complete the construction within the prescribed period or the land. There is no apparent



readiness for early use. As a result, the expected social/economic development is not achieved due to non-development of government land within the prescribed time frame.

On the said background, it is became necessary to devise a revised policy regarding the extension of time for construction of buildings on government lands allotted to various individuals, institutions or companies for various purposes by right of occupancy or lease as per the provisions of the Maharashtra Land Revenue Code, 1966 and the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971. And, in this regard, the decision mentioned hereunder is being taken.

**Governance decision: -**

Regarding giving extension for the construction of the building on the government land allotted accordance with the provisions of the Maharashtra Land Revenue Code, 1966 and the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971, or earlier to the various persons, organizations or companies by way of occupancy or lease for various purposes, vide this government resolution, the government instructed to proceed as follows.

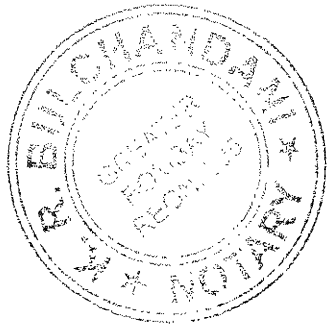




27

(i) Pursuant to the provisions of Rule 41 of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971, hereinafter in respect of construction on Government land granted by way of occupancy/lease, the order of granting of land shall include a condition that the construction of the building shall be completed within 3 years from the date of actual possession of the land.

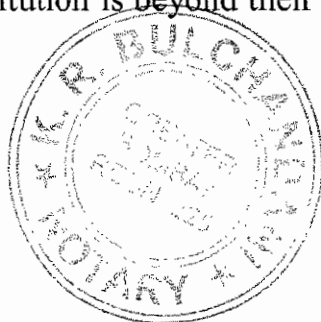
(ii) If the concerned person/institution does not complete the construction of the building within the period specified in the government land allotment order, it shall be mandatory for him/her/it to obtain an extension of time from the District Collector for such building construction. While granting such extension at the level of the Collector concerned, a surcharge shall be levied at the rate mentioned below:-



<b>Sr. No.</b>	<b>Extension Duration for Construction</b>	<b>Rate of premium to be charged for extension</b>	<b>Competent Authority to Grant approval for giving extension for construction</b>
1	First extension of 2 years after original sanction period	2% per annum of the cost of the land concerned as per prevailing annual rate statement.	concerned Collector

2	Second extension of 2 years	3% per annum of the cost of the land concerned as per prevailing annual rate statement	concerned Collector
3	Third extension of 2 years	5% per annum of the cost of the land concerned as per prevailing annual rate statement	concerned Collector
4	Fourth extension of 2 years	7% per annum of the cost of the land concerned as per prevailing annual rate statement	concerned Collector
5	Fifth extension of 2 years	10% per annum of the cost of the land concerned as per prevailing annual rate statement	concerned Collector

However, if the District Collector is satisfied that the reason mentioned in the application for extension of time by the concerned applicant person/institution is beyond their scope or out of hand, then half



of the above mentioned rates should be charged for extension of the construction period by stating such reasons in writing.

(ii) In cases where even after the expiry of the total sanctioned duration (i.e. the original sanctioned duration plus the sanctioned extension duration) the construction of the building on the concerned land is incomplete despite having commenced with the permission of the Planning Authority / Competent Authority or the completion certificate of such construction has not been received from the concerned Planning Authority / Competent Authority. In the case, till the certificate of completion of construction is received, extension of time shall be allowed on the condition that the concerned person or organization pays the premium at the rate of 12% of the cost of the respective land as per the annual rate statement of that year to the Collector every year.

(iv) In the case of persons or organizations who do not file an application for extension of time for construction within the original duration prescribed for construction in the land award order or within the approved extension period, within the expiry of the said period, in the case of such persons or organizations, for delay in the extension application, 1% of the cost of the land concerned as per the prevailing annual rate statement charges should also be levied as delaying fee.

(v) Even after giving of extension of time as above, if construction is not started by obtaining development permission from the concerned planning authority/competent authority in the case of such government land, the government should be collected the concerned land in it's present status, as per Rule 41 of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971 and amount of compensation not exceeding the occupancy price given by the allottee should be paid to concerned allottee.

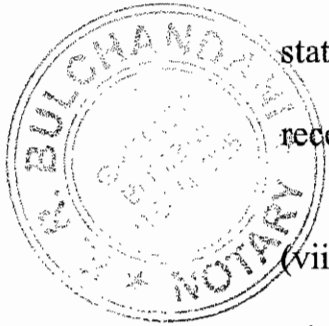
(vi) On the date of issuing of the present Government decision, in cases where the construction of the building has not been completed despite the permission of the concerned Planning Authority / Competent Authority and the original and approved grace period for completion of the building has been completed, the concerned person or organization can request for extension of another 2 years to the District Collector within 6 months since the said policy get effect or applied. After receiving such an application, the notional extension of time till the date of present government decision shall be given from the date of expiry of the prescribed original time plus approved extension time period for completion of the building construction by recovering 10 times/fold amount towards Non – agriculture tax in that respective year on the concerned land, while passing the order of extension in time. And further



extension of 2 years should be given by assessing and recovering premium by rate of 10% on the price of the concerned land calculated as per the price of the said land as per prevalent annual rate statement and 1% full amount towards late fee on the said amount.

If the construction is not completed even after such extension of time, the extension of time shall be allowed on the condition that the concerned person or organization shall pay to the Collector a premium of 12% per annum to the cost of the land concerned as per the annual rate statement of that year till the completion certificate of such construction is received from the concerned Planning Authority / Competent Authority.

(vii) On the date of issuing of the present Government decision, in cases where the construction of the building has not been completed despite the permission of the concerned Planning Authority / Competent Authority and the original and approved grace period for completion of the building has been completed, the concerned person or organization can request for extension for last extension of 2 years to the District Collector within 6 months since the said policy get effect or applied. After receiving such an application, the notional extension of time till the date of present government decision shall be given from the date of expiry of the prescribed original time plus approved extension time period for





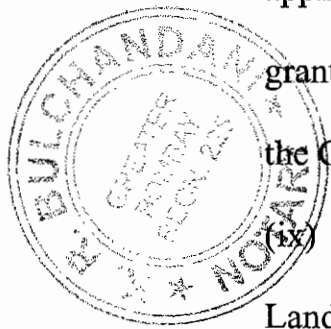
completion of the building construction by recovering 20 times/fold amount towards Non – agriculture tax in that respective year on the concerned land, while passing the order of extension in time. And further extension of 2 years should be given by assessing and recovering premium by rate of 10% on the price of the concerned land calculated as per the price of the said land as per prevalent annual rate statement and 1% full amount in towards late fee on the said amount.

Even after giving of extension of time as above, if construction is not started, then in the case of such government land, the government should be collected the concerned land in it's present status, as per abovesaid Rule 41 and amount of compensation not exceeding the occupancy price given by the allottee should be paid to concerned allottee.

If the construction is not completed even after such extension of time, the extension of time shall be allowed on the condition that the concerned person or organization shall pay to the Collector a premium of 12% per annum to the cost of the land concerned as per the annual rate statement of that year till the completion certificate of such construction is received from the concerned Planning Authority / Competent Authority.

(viii) As per the above mentioned (v) and (vii), in the case where due to the non-commencement of the building construction within the prescribed period, the order regarding returning of the land to the government has

been passed in such cases, the concerned person or society can apply to the government within a period of 3 months from the date of receipt of the said order of returning land to the government and thereby can request to the government for re-allocation/ of such land. After receiving such an application, the Government will take a merit-based decision regarding re-grant of the concerned land to the concerned person or organization as per the Government policy prevailing at that time.



(ix) Under the Maharashtra Land Revenue (Disposal of Government Lands), Rules, 1971, Government lands in the State are vested either by right of occupancy or on lease. The provisions of the said Rules shall apply to Government lands allotted under these Rules. Therefore, the persons/Society who have been allotted government land on occupancy right/lease are also comes under rule 41 of the above – mentioned rule, though the duration or time for completion of building construction has not been mentioned in their land grant order, agreement or charter and in such cases also it would be mandatory upon them to obtain extension of time for building construction as per the above instructions.

02. The said Government Decision is being issued vide informal Ref No.No.278/Expenditure-9,dated 29.9.2016 of Finance Department.

The said government decision has been made available on the website of Maharashtra Government [www.maharashtra.gov.in](http://www.maharashtra.gov.in) and its reference

number is 20170111356585319. This order is being issued by attesting the same with the digital signature.

By order and in the name of the Governor of Maharashtra.

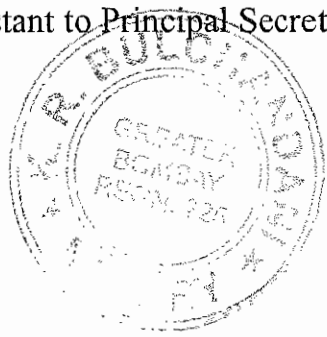
Rajendra Kshirsagar

Deputy Secretary

(Revenue)

To:-

- 1) Hon'ble Secretary to the Governor, State of Maharashtra, Raj Bhavan, Malabar Hill, Mumbai.
- 2) Hon'ble Principal Secretary to Chief Minister, Chief Minister's Secretariat, Mantralaya, Mumbai-32
- 3) Hon'ble Private Secretary to Minister (Revenue), Ministry, Mumbai-32.
- 4) Hon'ble Private Secretary to Minister of State (Revenue), Mantralaya, Mumbai-32.
- 5) Hon'ble Chief Secretary, Government of Maharashtra, Ministry, Mumbai-32.
- 6) Additional Chief Secretary (Finance) Finance Department, Ministry, Mumbai-32.
- 7) Accountant General (Audit) (Accounts and Licensing), State of Maharashtra, Mumbai / Nagpur
- 8) V.K.A./Personal Assistant to Principal Secretary (Revenue), Ministry, Mumbai.





- 105
- 9) Principal Secretary, Legislative Secretariat, Vidhan Bhavan, Mumbai,
  - (10) All Divisional Commissioners.
  - 11) Jamabandi Commissioner and Director, Land Records, State of Maharashtra, Pune.
  - 12) All Collectors / Additional Collectors.
  - 13) Directorate of Information and Public Relations, Ministry, Mumbai-32.
  - 14) Deputy Secretary L-1/L-1, Department of Revenue and Forests, Ministry, Mumbai.
  - 15) All administrative departments of the Ministry,
  - 16) All Joint Secretaries / Deputy Secretaries / Desk Officers in Group "J", Department of Revenue and Forests, Ministry, Mumbai.
  - 17) Selection Nasti (L-1)





दि. ०७/०७/२००६ रोजी पूर्ण झाल्याचे दिसून येते. तथापि, आपलेकडील बांधकामाची मुदत दि. ११/१२/२००३ रोजी संपुष्टात आल्यानंतर देखील आपण बांधकाम मुदतवाढ घेतलेली नाही.

आता, शासनाने शासन निर्णय दि. ११/०१/२०१७ अन्वये बांधकाम मुदतवाढीबाबत धोरण निश्चित केलेले असून शासनाने दिलेल्या निर्देशानुसार सदर धोरणातील परिच्छेद (vi) नुसार दि. १२/१२/२००३ ते बांधकाम पूर्ण होईपर्यंत (दि. ०७/०७/२००६) पर्यंत रक्कम रू. ३५,९६,२००/- प्रति वर्ष प्रमाणे एकूण ३ वर्षांकरिता रक्कम रू. १,०७,८८,६००/- SBI A/c GRAS यांचे नावे धनाकर्ष काढून या कार्यालयात भरणा १५ दिवसात भरणा करावी. (सोबत गणना तक्ता) सदर भाडेपट्टा रक्कमेची भरणा केलेनंतर मुदतवाढीबाबत आदेश पारित करण्याबाबत पुढील कार्यवाही करण्यात येईल याची नोंद घ्यावी.

P  
5/10/18  
D. S. S. S.

(सचिन कुर्वे)  
जिल्हाधिकारी, मुंबई उपनगर

मुंबई उपनगर जिल्हाधिकारी कार्यालय, प्रशासकिय इमारत १० वा मजला, शासकिय वस्तुहत, वांद्रा (पूर्व) मुंबई ५२  
कार्यालय ९१-२६५५५ ६७९९/२६५५७८०७ फॅक्स २६५५६८०५ ईमेल mumbai-suburban-collector@mah.gov.in



जिल्हाधिकारी, मुंबई उपनगर यांचे कार्यालय, प्रशासकिय इमारत १० वा मजला, शासकिय वस्तुहत, वांद्रा (पूर्व) मुंबई ५२  
कार्यालय ९१-२६५५५ ६७९९/२६५५७८०७ फॅक्स २६५५६८०५ ईमेल mumbai-suburban-collector@mah.gov.in



गणना तक्ता

मौजे बांद्रा, ता.अंधेरी

स.नं. ३४१अ.

क्षेत्र - ४५१५ चौ.मी.

शासन निर्णय दि. ११/०१/२०१७ मधील परिच्छेद (vi) मधील तरतुदीनुसार बांधकाम मुदतवाढ =  
बिनशेती दर :- ७९.६५/- प्रति चौ.मी.

क्षेत्र - ४५१५ चौ.मी.

बांधकाम मुदतवाढ शुल्क = ७९.६५ x ४५१५ = ३,५९,६२०/-

= ३,५९,६२० x १० = ३५,९६,२००/- प्रति वर्ष

दि. १२/१२/२००३ ते बांधकाम पूर्ण होईपर्यंत (दि. ०७/०७/२००६) पर्यंत बांधकाम मुदतवाढाचे शुल्क

= ३५,९६,२०० x ३ = १,०७,८८,६००/-

एकूण बांधकाम मुदतवाढ शुल्क रक्कम रु. १,०७,८८,६००/-



(सचिन कुर्बे)

जिल्हाधिकारी, मुंबई उपनगर



दिल्लीचा अधिकार अधिनियम,  
सुधन अंतर्गत वेप्यांत आलेल्या छायांकित प्रति

True Copy

Advocate For Plaintiff/s / Petitioner/s



जिल्हाधिकारी, मुंबई उपनगर यांचे कार्यालय, प्रशासकिय एमएस १० वा मजला, शारसकिय बसस्थान, बांद्रा (पूर्व) मुंबई । २  
कार्यालय ११-२६५५६७९९/२६५५७८०७ फॅक्स २६५५६८०५ ईमेल mumbaisuburbancollector@meh.gov.in



**Exhibit-J-1****The Office of the District Collector, Mumbai Suburban**

Sr.C/Desk-3D/L-235/750/2018

Date – 4 October, 2018

To

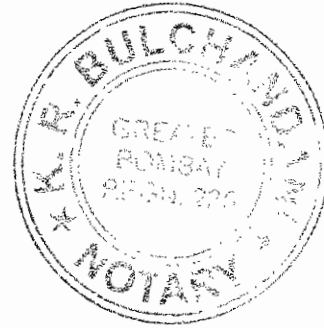
The Director,

Maharashtra Theater Pvt. Ltd.,

R. N. A. House Level-3,

50, Vir Nariman Road,

Fort, Mumbai-23

**Subject : Land : Mumbai Suburban District**

Regarding extension in time for the construction in pursuing land redevelopment which is granted on lease basis at Mauje Bandra, Tahsil – Andheri, S.No. 341 A, granted on lease to the Maharashtra Theater Pvt. Ltd.

Reference : 1) Government Memorandum No. Land 2600/1316/C.No. 292/L-3 dt. 07/11/2001 of Government, Revenue and Forest Department.

2) This office's order No. 11/3D/ L 0235. Dated 2/12/2001.

Vide the government Memorandum dated 18/06/1969, the land at Mouje Bandra, Tahsil – Andheri, S.No. 341A, area - 4515 sq. meter was granted by lease of 99 years. Thereafter, as per your request, and by abiding to the

provisions of the Development Control Rules, amongst the total carpet area that would be permissible on the land mentioned in question, 10% carpet area was allowed to be used for Cinema Theatre and 90% of the carpet area for offices, vide memorandum in reference no. 1 and order of this office under reference No.2, mentioned hereinabove.

While giving the said permission, as per condition number (a) therein "Construction should be completed within 2 years from the date of permission and actual use should be started", this condition was kept. On verifying the records of this office in the matter, it appears that the Full Occupancy Certificate has been received by you from the Municipal Corporation of Greater Mumbai on dated 07/07/2006.

And according to the above mentioned condition it was required to get complete your construction within 2 years i.e. till 11/12/2003. However from the certificate issued by the Municipal Corporation of Greater Mumbai, it is seen that your construction has been completed on dated 07/07/2006. Though the time construction for your construction work was ended on dated 11/12/2003, you have taken extension in time for construction work.

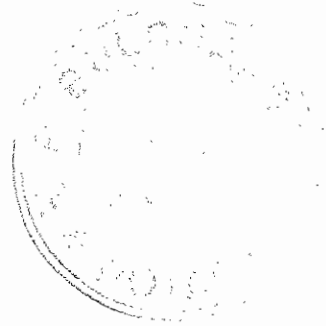
Now, Vide the Government Decision dated 11/01/2017, the government has declared policy for determining the extension in time for construction and according to the para No.(Vi) of the said policy, as per the instruction issued by

the government, from 12/12/2003 to 07/07/2006 i.e. till the construction is get completed, the amount of Rs.35,96,200/- per year totaling amount of Rs. 1,07,88,600/- for 3 years shall paid to this office within 15 days by drawing DD in the name of SBI, A/c GRAS. (Calculation Chart) has been attached herewith. After depositing of the said amount of lease, the further action for issuing order regarding extension in time will be given, please the same should be noted.

Sd/-

(Sachin Kurve )

District Collector, Mumbai Suburban



1/2

### Calculation Chart

Mouje Bandra, Tahsil – Andheri, S.N.341A Area – 4515 Sq. Mt.

According to the Provision in the Para No.(vi) of the Government Decision dated 11/01/2017, Extension in Time for Construction = NA Rate :- 79.65/- Per Square Meter.

Area :- 4515 Square Meter

Fee Towards Extension in Construction:-  $79.65 \times 4515 = 3,59,620/- = 3,59,620 \times 10 = 35,96,200/-$  per year

Fee towards the Extension in time for the duration 12 /12/2003 to 07/07/2006, i.e. since 12/12/2003 to the completion of the construction=  $35,96,200 \times 3 = 1,07,88,600/-$

Total amount of fee towards Extension for construction=Rs. 1,07,88,600/-



(Sachin Kurve)

District Collector, Mumbai Suburban



Exhibit K

~~Ex R~~



४०५

### जिल्हाधिकारी, मुंबई उपनगर यांचे कार्यालय

क्र.सी/कार्या-३डी/एल-२३५/६२.५/२०१९  
दिनांक 29 AUG 2019

प्रति,

संचालक,  
महाराष्ट्र थिएटर प्रा.लि.,  
आर एन ए. हाऊस लेकल-२,  
५०, विर मरिमान रोड, फोर्ट, मुंबई-२३

विषय: जमिन, मुंबई उपनगर जिल्हा

मौजे बांद्रा, ता.अंधेरी येथील स.नं.३४१अ मधील महाराष्ट्र थिएटर प्रा.लि. यांना भाडेपट्ट्याने मंजूर केलेल्या जमिनीच्या शर्तपत्राबाबत...

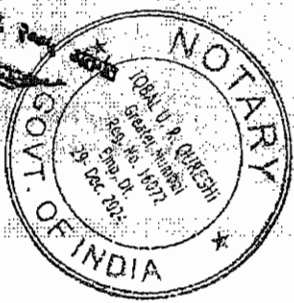
- संदर्भ : १) शासन, महसूल व वन विभागाकडील शासन जापन क्र.जमीन २६००/२३१६/प्र.क्र.२९२/ज-३ दि.०७/१२/२००९
- २) या कार्यालयाकडील आदेश क्र.११/३डी/एल-०२३५ दि.१२/१२/२००९

मौजे बांद्रा, ता.अंधेरी येथील स.नं.३४१अ, मधील ४५.१५ चौ.मी. जमिन शासन जापन दि.१८/०६/१९६९ अन्वये ९९ वर्षांच्या भाडेपट्ट्याने मंजूर करण्यात आलेली होती. तदनंतर आपलेकडील विनंतीच्या अनुषंगाने विकास नियंत्रण नियमावलीतील तरतुदीच्या अधीन राहून प्रस्तावित जमिनीसाठी अनुज्ञेय ठरणाऱ्या चटई क्षेत्रापैकी १०% चटई क्षेत्र चिखपट्टा/हाकरिता व ९०% चटई क्षेत्र कार्यालयाकरिता वापरण्यास संदर्भ क्रमांक १ चे जापनाव्यये तसेच संदर्भ क्रमांक २ अन्वये या कार्यालयाकडील आदेशांन्वये परवानगी देण्यात आलेली होती व त्याबाबत दि.०५/१२/२००५ अन्वये भाडेपट्टा करारनामा देखील करण्यात आलेला होता.

तथापि, प्रकरणी सदर संचिकेतील कागदपत्रांचे अवलोकन केले असता खालीलप्रमाणे शर्तपत्र झाल्याचे दिसून येत आहे.

- १) सदर परवानगी देताना त्यामध्ये अट क्रमांक (अ) नुसार "परवानगी दिल्यापासून २ वर्षांच्या आत बांधकाम पूर्ण करून प्रत्यक्ष वापर सुरू करणे त थावा." अशी अट ठेवण्यात आलेली होती. प्रकरणी या कार्यालयाचे अभिलेखाची पडताळणी केली असता आपणास दि.०७/०७/२००६ रोजी वृहन्मुंबई महानगरपालिकेकडून पूर्णाव्याचा दाखला (Full Occupancy Certificate) प्राप्त झाल्याचे दिसून येते. त्याअनुषंगाने बांधकाम मुक्तदाहपोटी या कार्यालयाकडून दि.०४/१०/२०१८ रोजीच्या पत्रान्वये कळविण्यात आलेली रक्कम रु.१,०७,८८,६००/- इतकी या कार्यालयात भरणा केलेली नाही.
- २) तसेच शासन जापन दि.०७/११/२००९ नुसार या कार्यालयाकडील दि.१२/१२/२००९ रोजीच्या आदेशामधील अट क्रमांक (क) मधील परिच्छेद क्रमांक ३ अन्वये भाडेपट्टेदार यांनी कार्यालयासाठी वापरणेचा ९०% चटईक्षेत्रासाठी (४०६३.५ चौ.मी.) भाडेपट्ट्याच्या रकमे व्यतिरिक्त ५०% अनर्जित उतपन्नाची रक्कम भरणेची आहे. तथापि, सदरची अनर्जित रक्कम या कार्यालयास भरणा केलेली नाही.
- ३) भाडेपट्टा करारनामा दि.०५/१२/२००५ मधील अट क्रमांक २ नुसार शासन जापन दि.०४/०९/१९६७ मधील अटी व शर्ती बंधनकारक असल्याची अट आहे. त्यानुसार शासन जापन दि.०४/०९/१९९७ मध्ये अट क्रमांक ५

जिल्हाधिकारी, मुंबई उपनगर यांचे कार्यालय, प्रशासकीय इमारत, १७ वा मजला, शासकीय वेसाहन, फोर्ट (पूर्व), मुंबई-२३  
कार्यालय ३६-२६५५६७९१/२६५५७८०७ फॅक्स ३६५५६८०५ ईमेल- mumbai@urbanchoicelife.com



117



प्राये " कंपनी ज्या जिल्लिय संस्थेकडून सधे उभावणी करणार आहे त्या संस्थेचे नाव कंपनीने जिल्हाधिकार्याना कळविणे बंधनकारक राहिल अन्यथा हे आदेश गैरलागू होतील." असे अट नमूद करण्यात आलेली होती.

परंतु भाडेपट्टेदार यांनी सदर अटीचे पालन न करता जमिनीचा भ्रम तोडण्या ठेवताना या कार्यालयामुळे कोणतीही सूचना दिलेली नाही अथवा कार्यालयाची परवानगी घेतलेली नाही, त्यामुळे सदर अटीचा भंग झालेला आहे.

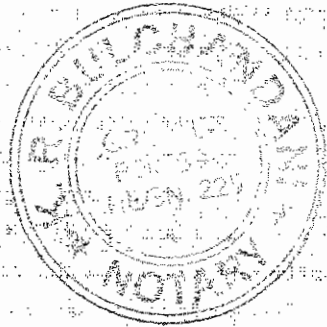
४) भाडेपट्टेदार यांनी भाडेपट्ट्याचे दिलेली जमीन अथवा कोणताही भाग हस्तांतरण, विक्री, तासण ठेवण्यापूर्वी शासनाची / जिल्हाधिकारी यांची परवानगी घेणे बंधनकारक होते. परंतु या कार्यालयाच्या असे निदर्शनास आलेले आहे की, प्रस्तावित भिळकतीवरील केलेल्या बांधकामामधील ६ वा मजला, ३ रा मजला व ५ वा मजला अनुक्रमे दि.१४/०९/२०१२, दि.२८/०३/२०१२ व दि.२६/०३/२०१४ रोजीच्या गहाणखताद्वारे या कार्यालयच्या परवानगी शिवाय देना बंधनकारक गहाण ठेवण्यात आलेला होता. तसेच तदनंतर विनापरवानगा सवर मजला हे ईऑक्शन द्वारे विक्री केलेले आहेत. त्यामुळे शासनास देय असलेली अनर्जित रक्कम शासनास भिळालेली नसल्यामुळे शासनाच्या मरुसुलाचे नुकसान झालेले आहे.

सबब, उपरोक्त विनापरवानगा तासण व हस्तांतरणामुळे शासनास देय असलेली अनर्जित रक्कम आपणाकडून वसूल करा करण्यात येऊ नये तसेच आपणांवरून शतभगाबाबत कारवाई का करण्यात येऊ नये याबाबत लेखी खुलासा/निवेदन सादर करणेकामी दि. १९/०९/२०१९ रोजी ११-३० वाजता या कार्यालयत सुनावणी आयोजित केलेली आहे. सदर सुनावणीस आपण अथवा आपले प्राधिकृत प्रतिनिधीद्वारे हजर रहावे.

सदरच्या सुनावणीचे वेळी व दिवशी आपण अथवा आपले प्रतिनिधी हजर न राहिल्यास आपणास काहीही सांगण्याचे नाही असे गृहित धरून पुढील कायदेशीर कारवाई केली जाईल याची कृपया नोंद घ्यावी.

१९/०९/१९

(मिलिंद बोरीकर)  
जिल्हाधिकारी, मुंबई उपनगर



मिलिंद बोरीकर अधिवक्ता, मुंबई उपनगर

जिल्हाधिकारी, मुंबई उपनगर यांचे कार्यालय, प्रथम मजलेय इमारत, २० वा मजला, शांतीनगर वसाहत, बंधा (पूर्व), मुंबई-४०००१२  
कार्यालय २२-२६५५६०१९/२६५५६०२० फॅक्स २६५५६०१५/२६५५६०१६ ईमेल- mumbai@tribunecollector@mah.gov.in

True Copy

Advocate For Plaintiffs / Petitioner/s

**Exhibit-K-1****The Office of the District Collector, Mumbai Suburban**

Sr.C/Desk-3D/L-235/625/2019

Date - 29AUG 2019

To  
The Director,  
Maharashtra Theater Pvt. Ltd.,  
R. N. A. House Level-3,  
50, Vir Nariman Road,  
Fort, Mumbai-23

**Subject : Land : Mumbai Suburban District**

Regarding breach of condition of land at Mauje Bandra, Tahsil –  
Andheri, S.No. 341 A, granted on lease to the Maharashtra Theater  
Pvt. Ltd.

Reference : 1) Government Memorandum No. Land 2600/1316/C.No.  
292/L-3 dt. 07/11/2001 of Government, Revenue and Forest  
Department

2) This office's order No. 11/3D/ L 0235. Dated 12/12/2001

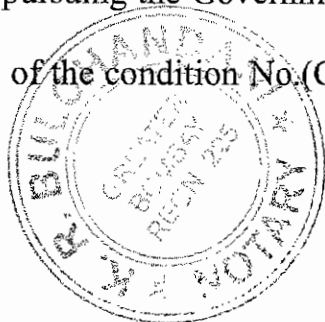
Vide the government Memorandum dated 18/06/1969, the land at Mouje  
Bandra, Tahsil – Andheri, S.No. 341A, area - 4515 sq. meter was allotted by

lease of 99 years. Thereafter, as per your request, subject to the provisions of the Development Control Rules, amongst the total area that would be permissible on the land mentioned in question 10% carpet area was allowed to be used for Cinema Theatre and 90% of the carpet area for offices, vide memorandum in reference no. 1 and order of this office under reference No.2, mentioned hereinabove. And regarding this, the Lease Agreement was also entered into on dated 05/12/2005.

However, on perusal of the documents in the said agreement, it is seen that the following condition has been breached.

1) While giving the said permission, as per condition number (a) "Construction should be completed within 2 years from the date of permission and actual use should be started", this condition was kept. On verifying the records of this office in the matter, it appears that the Full Occupancy Certificate has been received by you from the Municipal Corporation of Greater Mumbai on dated 07/07/2006. In accordance with that, vide the letter dated 04/10/2018 of this office, you were informed for paying the amount of Rs. 1,07,88,600/- towards the extension in prescribed time however the same has not been paid by you in this office.

2) Also in pursuing the Government Memorandum dated 07/12/2001, as per the Para No. 3 of the condition No.(C) of the order dated 12/12/2001, for the carpet

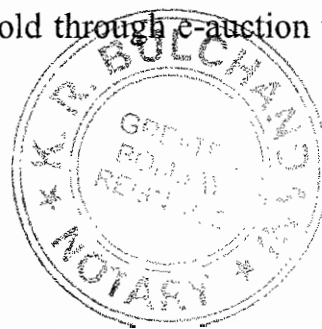


area of 10% (4063.5 sq.m.) to be used by the lessee for offices has to paid 50% amount towards unearned income in addition to lease rent. However, the said unearned amount has not been paid to this office.

3) According to the condition No. 2 of the Lease Agreement dated 05/12/2005, terms and conditions in the Government Memorandum dated 04/02/1997 are stipulated to be binding. Accordingly, in the condition No.5 of the government memorandum dated 04/09/1997 the condition was mentioned that the name of the financial institution from which loan will be raised should be informed to the District Collector otherwise the said order will not be applied.

However, the lessee did not give any notice to this office and did not take the permission of this office while mortgaging the part of the land without complying with the said condition. Therefore, the said condition has been breached.

4) It is mandatory for the lessee to obtain the permission of the Government / District Collector before transferring, selling or mortgaging the land or any part of the leased land. However, it has been pointed out by this office that the 6th floor, 3rd floor and 5th floor of the construction on the property in question has been kept mortgaged with Dena Bank vide the Mortgage Deed dated 14/09/2012, 28/03/2013 and 26/03/2014 respectively without the permission of this office. Also, after that, the said floors were sold through e-auction without



1/8

permission. Therefore, as the government has not received the unearned amount due to the government, the revenue of the government has been lost.

For the above reason, unearned amount due to Government due to above unauthorized mortgage and transfer why should not recover from you and why should we not take action against you for breach of condition? And in this regard, for taking a written explanation / statement from you a hearing has been arranged in this office on dated 19/09/2019 at 11.30 so attend at the said hearing either in person or through your authorized representative

Please note that if you or your representative does not appear at the time and day of the said hearing, further legal action will be taken on the assumption that you have nothing to say.

Sd/-

(Milind Borikar)

District Collector, Mumbai Suburb

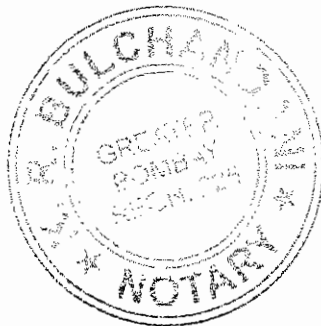


Exhibit L

"Ex-11"



## जिल्हाधिकारी, मुंबई उपनगर यांचे कार्यालय

अंतिम सुनावणी नोटीस

क्र.सी/कार्या.३डी/एल-२३५/२०६/२०२१

दिनांक: 22 FEB 2021

प्रति,

संचालक,  
महाराष्ट्र थिएटर प्रा.लि.,  
आर.एन.ए. हाऊस लेव्हल-३,  
५०, विर नरिमन रोड, फोर्ट, मुंबई-२३

जिल्हाधिकारी अधिनियम, २००५ अन्वये

**विषय : जमिन : मुंबई उपनगर जिल्हा**

मौजे बांद्रा, ता.अंधेरी येथील स.नं.३४१अ मधील महाराष्ट्र थिएटर प्रा.लि. यांना भाडेपट्ट्याने मंजूर केलेल्या जमिनीच्या शर्तभंगाबाबत..

संदर्भ : १) शासन, महसूल व वन विभागाकडील शासन जापन क्र.जमीन

२६००/२३१६/प्र.क्र.२९२/ज-३ दि.०७/११/२००१

२) या कार्यालयाकडील आदेश क्र.११/३डी/ एल-०२३५ दि.१२/१३/२००१

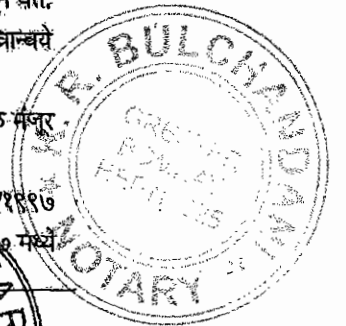
३) या कार्यालयाकडील समक्रमांकाची नोटीस दि. २९/०८/२०१९

मौजे बांद्रा, ता.अंधेरी येथील स.नं.३४१अ, मधील ४५१५ चौ.मी. जमिन शासन जापन दि.१८/०६/१९६९ अन्वये ९९ वर्षांच्या भाडेपट्ट्याने मंजूर करण्यात आलेली होती. तदनंतर आपलेकडील विचंतीच्या अनुषंगाने विकास नियंत्रण नियमावलीतील तरतुदीच्या अधीन राहून प्रश्नांकित जमिनीसाठी अनुज्ञेय ठरणाऱ्या चटई क्षेत्रापैकी १०% चटई क्षेत्र चित्रपटगृहाकरिता व ९०% चटई क्षेत्र कार्यालयाकरिता वापरण्यास संदर्भाय क्रमांक १ चे जापनान्वये तसेच संदर्भाय क्रमांक २ अन्वये या कार्यालयाकडील आदेशान्वये परवानगी देण्यात आलेली होती व त्याबाबत दि.०५/१२/२००५ अन्वये भाडेपट्टा करारनामा देखील करण्यात आलेला होता.

तथापि, प्रकरणी सदर संचिकेतील कागदपत्रांचे अवलोकन केले असता खालीलप्रमाणे शर्तभंग झाल्याचे दिसून येत आहे.

- १) सदर परवानगी घेताना त्यामध्ये अट क्रमांक (अ) नुसार "परवानगी दिल्यापासून २ वर्षांच्या आत बांधकाम पूर्ण करून प्रत्यक्ष वापर सुरू करणेत यावा." अशी अट ठेवण्यात आलेली होती. प्रकरणी या कार्यालयाचे अभिलेखाची षडताळणी केली असता आपणास दि.०७/०७/२००६ रोजी वृहन्मुंबई महानगरपालिकेकडून पूर्णत्वाचा दाखला (Full Occupancy Certificate) प्राप्त झाल्याचे दिसून येते. त्या अनुषंगाने बांधकाम मुतदवाढपोटी या कार्यालयाकडून दि.०४/१०/२०१८ रोजीच्या पत्रान्वये कळविण्यात आलेली रक्कम रु.१,०७,८८,६००/- इतकी या कार्यालयात भरणा केलेली नाही.
- २) विषयांकीत मिळकतीमधील थिएटर आज रोजी बंद असल्याचे प्रथमदर्शनी दिसून येत असून मूळ मंजूर प्रयोजनार्थ जागोचा वापर करित नसल्याने शर्तभंग होत आहे.
- ३) भाडेपट्टा करारनामा दि.०५/१२/२००५ मधील अट क्रमांक २ नुसार शासन जापन दि.०४/०९/१९९७ मधील अटी व शर्ती बंधनकारक असल्याची अट आहे. त्यानुसार शासन जापन दि.०४/०९/१९९७ मध्ये

जिल्हाधिकारी, मुंबई उपनगर यांचे कार्यालय, प्रशासकीय इमारत, १० वा मजला, शासकीय भवन, बांद्रा (पूर्वीचे) ४०० ०५५ कार्यालय ९१-२६५५६७१९/२६५५७८०७ फॅक्स २६५५६८०५ ईमेल- mumbaisub@theatres.gov.in



अट क्रमांक ५ मध्ये " कंपनी ज्या वित्तीय संस्थेकडून कर्ज उभारणी करणार आहे त्या संस्थेचे नाव कंपनीने जिल्हाधिकार्यांना कळविणे बंधनकारक राहिल अन्यथा हे आदेश गैरलागू होतील." अशी अट नमूद करण्यात आलेली होती.

परंतु आपण भाडेपट्ट्याने प्रदान करण्यात आलेल्या जमिनीवरील इमारतीमधील तिसरा, पाचवा व सहावा मजल्याकरीता खालील तक्त्यात नमूदप्रमाणे कर्ज देना बँककडून उभारले असल्याचे प्रथमदर्शनी दिसून येत आहे:

मजला	तिसरा	पाचवा	सहावा
गहाण ठेवलेले क्षेत्र चौ.मी.	१२१७.०२	१५८१.८६	१६६१.९२
कर्जाची रक्कम	३५,००,००,०००/-	२८,५६,००,०००/-	६५,३५,००,०००/-
एकूण कर्जाची रक्कम	१,२८,९१,००,०००/-		

सबब: शासन निर्णय दि. २६/०६/२०१८ मधील तरतुदीनुसार कर्जाच्या रकमेच्या ०.५०% तारण शुल्क रक्कम रु. ६४,४५,५००/- इतकी येत आहे परंतु आपण सदर अटीचे पालन न करता जमिनीचा भाग तारण ठेवताना या कार्यालयास कोणतीही सूचना दिलेली नाही व या कार्यालयाची परवानगी देखील घेतलेली नाही. त्यामुळे दुपट तारण शुल्काची रक्कम रु. १,२८,९१,०००/- इतकी रक्कम येत आहे.

सबब, उक्त नमूद केल्याप्रमाणे तारण शुल्काची व बांधकाम मुदतवाढीची रक्कम वसूल का करण्यात येऊ नये? तसेच उक्त नमूद रक्कमा शासनजमा न केल्यास तसेच शर्तभंगाबाबत आपणाविरुद्ध कारवाई का करणेत येऊ नये? याबाबत लेखी खुलासा/निवेदन सादर करणेकामी अंतिम सुनावणी दि. ०१/०३/२०२१ रोजी रु. १२.३० वाजता या कार्यालयात सुनावणी ठेवण्यात आली असून सदर सुनावणीस आपण समक्ष अथवा कायदेशीर प्रतिनिधीमार्फत या कार्यालयात न चुकता हजर राहावे. सुनावणीचे वेळी आपण आपले लेखी निवेदनसुद्धा सादर करू शकता.

सदरच्या सुनावणीचे वेळी व दिवशी आपण अथवा आपले कायदेशीर प्रतिनिधी हजर न राहिल्यास आपणास काहीही सांगावयाचे नाही असे गृहित धरून नियमानुसार उचित कायदेशीर कार्यवाही केली जाईल याची कृपया नोंद घ्यावी.

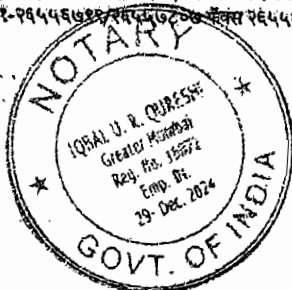
जिल्हाधिकारी, मुंबई उपनगर यांचे कार्यालय, प्रशासकीय इमारत, १० वा मजला, शासकीय वसाहत, बांद्रा (पूर्व), मुंबई-४०० ०५१

*(Handwritten signature)*  
(मिलिंद बोरीकर)  
जिल्हाधिकारी, मुंबई उपनगर



जिल्हाधिकारी, मुंबई उपनगर यांचे कार्यालय, प्रशासकीय इमारत, १० वा मजला, शासकीय वसाहत, बांद्रा (पूर्व), मुंबई-४०० ०५१  
कार्यालय ११-२६५५६७२२, २६५५६८००, २६५५६८०५ इमेल- mumbaisuburbancollector@mah.gov.in

True Copy



Advocate For Plaintiffs / Petitioner/s

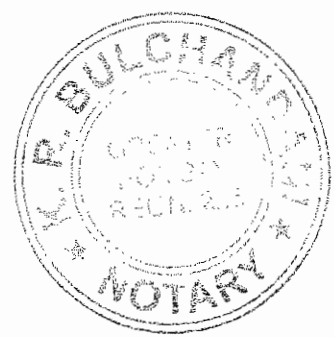


**Exhibit-L-1**

**The Office of the District Collector, Mumbai Suburban**

Sr.C/Desk-3D/L-235/109/2019  
Date – 22 Feb 2021

**To**  
**The Director,**  
**Maharashtra Theater Pvt. Ltd.,**  
**R. N. A. House Level-3,**  
**50, Vir Nariman Road,**  
**Fort, Mumbai-23**



**Subject : Land: Mumbai Suburban District**

Regarding breach of condition of land at Mauje Bandra,  
Tahsil – Andheri, S.No. 341 A, granted on lease to the  
Maharashtra Theater Pvt. Ltd.

- Reference :
- 1) Government Memorandum No. Land 2600/1316/C.No. 292/L-3 dt. 07/11/2001 of Government, Revenue and Forest Department
  - 2) This office's order No. 11/3D/ L 0235 dated 12/12/2001
  - 3) The notice bearing same number dated 29/08/2019 of this office

Vide the government Memorandum dated 18/06/1969, the land at Mouje Bandra, Tahsil – Andheri, S.No. 341A, area - 4515 sq. meter was allotted by lease of 99 years. Thereafter, as per your request, subject to the provisions of the

122

Development Control Rules, amongst the total area that would be permissible on the land mentioned in question 10% carpet area was allowed to be used for Cinema Theatre and 90% of the carpet area for offices, vide memorandum in reference no. 1 and order of this office under reference No.2, mentioned hereinabove. And regarding this, the Lease Agreement was also entered into on dated 05/12/2005.

However, on perusal of the documents in the said agreement, it is seen that the following condition has been breached.

1) While giving the said permission, as per condition number (a) "Construction should be completed within 2 years from the date of permission and actual use should be started.", this condition was kept. On verifying the records of this office in the matter, it appears that the Full Occupancy Certificate has been received by you from the Municipal Corporation of Greater Mumbai on dated 07/07/2006. In accordance with that, vide the letter dated 04/10/2018 of this office, you were informed for paying the amount of Rs. 1,07,88,600/- towards the extension in prescribed time however the same has not been paid by you in this office.



2) Prima facie it is seen that the theatre mentioned on the subject is shut down, at present and therefore violation is occurred on account of not using the premise for original sanctioned purpose.

3) According to the condition No.2 in the Lease Agreement dated 05/12/2005, the terms and condition in the government memorandum dated 04/09/1997 is mandatory and accordingly in condition No. 5 of the government memorandum dated 04/09/1997.

It was mentioned the name of the financial institution from which loan will be raised should be informed to the District Collector otherwise the said order will not be applied.

However, prima facie it is seen that you have raised the loan from Dena Bank against the third, fifth and sixth floor of building constructed on the land granted to you on lease, details of which mentioned hereunder.

Floor	Third	Fifth	Sixth
Mortgaged Area (Sq. Mt. )	1217.02	1581.86	1661,92
Loan Amount	35,00,000/-	28,56,00,000/-	<del>65,35,00,000/-</del>
Total Loan Amount	1,28,91,00,000/-		

Therefore, according to the provision in the government decision dated 26/06/2018, the 0.50% amount towards mortgage fee comes as Rs. 64,45,500/-.

However, you did not give any notice to this office while mortgaging the part of

123

the said land and even did not take the permission of this office and thereby did not comply with the said condition. Therefore, the said condition has been breached. Hence, the amount towards two fold mortgage fee is comes as Rs.2,28,91,000/-.

For the above reason, why the amount towards mortgage fee and extension in time should not be recovered from you? And why the action against you should not be taken on account of violation of breach of the condition? And in this regard, for submitting a written explanation / statement from you a hearing has been arranged in this office on dated 01/03/2021 at 12.30PM, therefore attend at the said hearing either in person or through your authorized representative.

Please note that if you or your representative does not appear at the time and day of the said hearing, further legal action will be taken on the assumption that you have nothing to say.

Sd/-

(Milind Borikar)

District Collector, Mumbai Suburb



## Exhibit M

AA

~~AA~~

27

२१.०३.०६/०५/२०२२



## जिल्हाधिकारी, मुंबई उपनगर जिल्हा

प्रशासकीय इमारत, २० वा मजला, शासकीय वसाहत, बांद्रा (पु)-५१  
 फॅक्स क्र. ०२२-२६५५६८०५ दुरावनी क्र. ०२२-२६५५६७९९ ईमेल- collectormsu@gmail.com

सुधारीत नोटीस

क्र: सी/कार्या-३डी/एल-२३५/ १२०२१

दिनांक १० APR 2022

प्रति,

- संचालक, महाराष्ट्र थियेटर प्रा. लि. आर.एन.ए. हाऊस, लोकल-३, ५० वी, नॉर्मन रोड फोर्ट, मुंबई-४०० ०१३.
- व्यवस्थापक, देना बँक (बँक ऑफ बडोदा), देना कॉर्पोरेट सेंटर, जी ब्लॉक, बांद्रा-कुर्ला कॉम्प्लेक्स, बांद्रा (पु), मुंबई-४०० ०५१.
- व्यवस्थापक, अल्हाबाद बँक, अल्हालाहाबाद बँक बिल्डींग, २ रा मजला, एम.एस. मार्ग, फोर्ट, मुंबई-४०० ०२३.
- मे. मिडडे इन्फोमिडिया, आर.एन.ए. कॉर्पोरेट पार्क, परिचय द्रुतगती मार्गानवक, कलानगर, बांद्रा (पु), मुंबई-४०० ०५१.
- मे. व्ही.आर.एस.एम. इन्टरप्र्राइज, एलएलपी, ३ सर्वोदया नगर, जागरण इमारत, कान्पूर-२०८ ००५.
- मे. म्युझिक ब्रॉडकास्ट लि, ५ वा मजला, आर.एन.ए. कॉर्पोरेट पार्क, परिचय द्रुतगती मार्गानवक, कलानगर, बांद्रा (पु), मुंबई-४०० ०५१.

लिपि : प्रामिन : मुंबई उपनगर जिल्हा

मौजे बांद्रा, ता. अंधेरी येथील स.नं. ३४१अ मधील महाराष्ट्र थियेटर प्रा. लि. यांना भाडेपट्ट्याने पंजूर केलेल्या जमिनीच्या शतधंगाबाबत.

संदर्भ : १) शासन, महसूल व वन विभागाकडील शासन जापन क्र.जमीन

२६००/१३३६/प्र.क्र.२१२/नं-३ दि.०७/११/२००१

२) या कार्यालयाकडील आदेश क्र.११/३डी/एल-०२३५ दि.१२/११/२००१

३) या कार्यालयाकडील समक्रमांकाची नोटीस दि.२९/०८/२०१६ व दि.०६/०१/२०२१

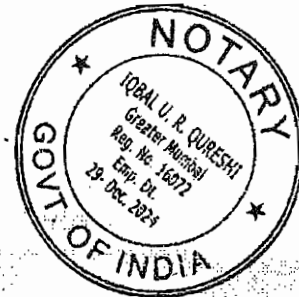
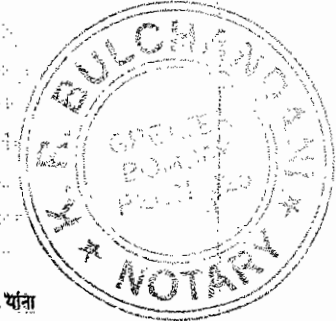
४) या कार्यालयाकडील समक्रमांकाची नोटीस दि.२२/०२/२०२१

५) मे. मिडडे इन्फोमिडिया यांचा अर्ज दि. १२/०३/२०२२

मौजे बांद्रा, ता. अंधेरी स.नं. ३४१ अ मधील ४५१५ चौ.मी. जागीन शासन निर्णय दिनांक १८/०६/१९६९

अन्वये १९ वर्षांच्या भाडेपट्ट्याने काही अटी शर्तीवर सितेपा थियेटरसाठी महाराष्ट्र थियेटर प्रा. लि. यांना प्रदान

करण्यात आलेली काही तद्दुनत शासनाने कंपनीच्या विनंतीनुसार शासन जापन दि.०९/०७/१९८१.

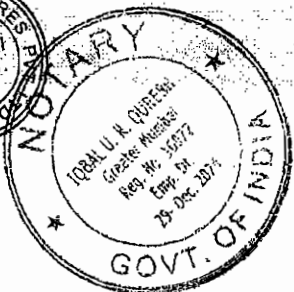
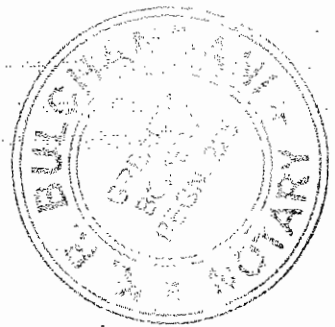


दि.३०/०६/१९९४ व अतिमत्तः दि.०७/११/२००१ नुसारं वापरता बदलास परवानगी दिली. सदर परवानगीच्या अनुषंगाने निलदाखिल्याची यांनी दि.१२/१२/२००१ रोजी भाडेपट्ट्याची रक्कम सुनिश्चित करून काही अटी शर्तीसह आग्रहात बदलाचे आदेश निर्गमित केले. व या आदेशानंतर दि.०५/१२/२००५ रोजी महाराष्ट्र विघटन प्रा.सि.चा संसोधन करार मोदविला.

महाराष्ट्र विघटन प्रा.सि.च्या जमीन प्रदान करणे व घेऊन घेऊन वापरता बदलास परवानगी प्राप्त झाल्याची व या कार्यालयाच्या संदर्भात, करारनामा विचारता येता सदर जमिनीसंदर्भात खालीलप्रमाणे शर्तीसह झाल्याचे प्रथम दर्शनी निदर्शनास येत आहे :-

१. **मुदतीत बांधकाम न करणे :-** कंपनीस वापरता बदल परवानगी देताना शासन जापन दि. १५/११/२००१ मधील अट क्रमांक(अ) नुसार परवानगी दिल्यापासून १ चतुर्था आत बांधकाम पूर्ण करून प्रत्यक्ष वापर सुरू करण्यात यावा, अशी अट उघड्यात आलेली होती. प्रकरणी या कार्यालयाचे अभिलेखाची पडताळणी केली असता अ. महाराष्ट्र विघटन यांना दि.०७/०७/२००६ रोजी महापालिकेकडून पूर्णत्वाचा दाखला प्राप्त झाल्याचे दिसून येते. त्यानुषंगाने बांधकाम मुदतवाढीपैकी या कार्यालयाकडून दि. ०४/१०/२०१८ रोजीच्या पत्रावरील कळविण्यात आलेली या कार्यालयात भरणा केली नाही.
२. **भाडेपट्टा न देणे :-** कंपनीस जमीन प्रदान केल्यानंतर कंपनीने वेळोवेळी वापरता बदलाची किंनेती केली अतिमत्तः शासन जापन दि. ०७/११/२००१ च्या अनुषंगाने व या कार्यालयाच्या दि. १२/१२/२००१ रोजीच्या पत्राच्या अनुषंगाने भाडेपट्ट्याची आकारणी करण्यात आली व दि. ०५/१२/२००५ च्या करारनाम्यामध्ये हेवेलील पविच्छेद क्रमांक ४ मध्ये भाडेपट्ट्या संदर्भात सदर वाव सविस्तरपणे नमूद करण्यात आलेली आहे. संबंधित कंपनीने सन २०१३ पर्यंत भाडेपट्ट्याची रक्कम भरणा केली असून तदनंतर कंपनीने सदर वागा विविध कार्यालयांना पाटभाडेपट्ट्याने दिलेली आहे. तथापि, करारनाम्यातील अट क्रमांक ४ नमूद केल्याप्रमाणे शासनाच्या दि.२३/११/२००१ व दि.२८/०८/२००४ रोजीच्या शासन निर्णयाप्रमाणे या कार्यालयाची परवानगी घेतलेली नाही व त्याप्रमाणे आणतागणत देव असणारी भाडेपट्टा रक्कम भरलेली नाही म्हणजेच दि. ०५/१२/२००५ रोजीच्या करारनाम्यातील अट क्रमांक ४ चा भंग झालेला आहे.
३. **वित्तीय संस्थानात वापर देणे शासनाची अनाजित रक्कम न देणे :-** महाराष्ट्र विघटन प्रा.सि.च्या प्रदान केल्यानंतर संबंधितांनी जमिनीच्या विक्रीसाठी वित्तीय संस्थेकडून फर्ज मिळणेबाबत परवानगी मागितली होती, सदर कंपनीस शासन जापन दि. ०४/०९/१९९७ व निलदाखिल्याची यांचे दि. ०१/०२/१९९८ रोजीचे आदेशाने वित्तीय संस्थेकडून फर्ज उभारण्यास खालील अटी शर्तीवर परवानगी देण्यात आलेली होती :-

2024/08/01 10:00 AM



शासन आण्ड दि. ०४/०९/१९९७ च जिल्हाधिकारी यांचे दि.०४/०९/१९९७ रोजीच्या अधिसातीत क्रमांक (१) ते (५) मध्ये पुढील प्रमाणे न्याय केलेले आहे :-

१) कर्ज देणाऱ्या वित्तीय संस्थेने शूखंड किंवा भाडेपट्टा इवक या त्याचा कोणताही भाग विकतवयाय कोढला तर पहिला शार म्हणून शासनाचा पुढील रकमा घाल्या लागतील आणि यद्वाणदार आपल्या मागण्या ठवीरत रकमेतून मागवतील.

अ) भाडेपट्टापोटी दफिती रकम असल्यास च करारनाम्यानुसार देय रकमा

ब) उक्त जमिनीच्या विक्री द्वारे मिळणाऱ्या अनारजित जपनाच्या ५० टक्के रकम अनारजित उत्पन्नाची रकम ठरविण्याच्या प्रयोजनासाठी जिल्हाधिकारी, मुंबई उपनगर जिल्हा किंवा शासनाने त्याकरिता नियुक्त केलेल्या अन्य कोणताही अधिकारी अशी अर्भजित रकम ठरवील व आवश्यक झाल्यास त्यावेळी शासनाचे आदेश मिळवेल.

२) संबंधित वित्तीय संस्थेला ९० दिवसाची नोटीस दिल्याशिवाय महाराष्ट्र थियेटर प्रा.लि. यन्विवरवेर करारनामा संपुष्टात केला जाणार नाही चा जमीन पुनर्हित करता येणार नाही हेनु हा की. शर्तभावाखत उपाययोजना करण्याची शक्यता असल्यास, सही उपाययोजना करण्याची संधी संबंधित वित्तीय संस्थेस उपलब्ध राहोती.

३) सवर प्रकरणी वित्तीय संस्थेकडून कर्ज उभारल्यानंतर त्या संस्थेकडील प्रमाणपत्र व त्या कर्जाच्या सुयोग्य धारदांबाबतच्या प्रमाणपत्राच्या प्रती शासनास सादर करण्यत येतील.

४) महाराष्ट्र थियेटर प्रा.लि. यांनी कोणताही शर्तभंग केलेला नाही याची खात्री जिल्हाधिकारी यांनी करावयची आहे व फुडल्याही शर्तभंग जिल्हाधिकारी यांच्या निदर्शनास आल्यास जमीन पुनर्हित करण्यत येईल.

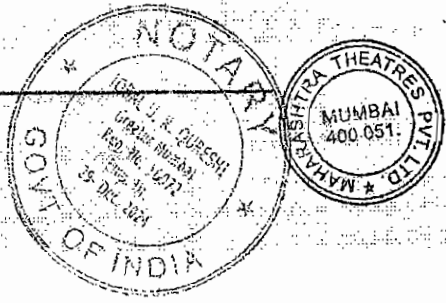
५) कंपनी ज्या वित्तीय संस्थेकडून कर्ज उभारणी करणार आहे त्या संस्थेचे नाव च करारनामा कंपनीने जिल्हाधिकारी यांना कळविणे बंधनकारक राहिल अत्यथा, हे आदेश गेरलागू होतील.

तथापि, अरण शासन आपन दि. ०४/०९/१९९७ च जिल्हाधिकारी यांचे दि.०४/०९/१९९७ चे पालन केलेले नाही म्हणजेच दि. ०५/१२/२००५ रोजीच्या करारनाम्यातील अट क्र. ३ चा भंग झालेला आहे.

४. विनापरवानगी हस्तांतरण करणे :- भाडेपट्टेदार यांनी भाडेपट्ट्याने दिलेली जमीन अथवा कोणताही भाग हस्तांतरण, विक्री, तारण देवणमापूर्वी शासनाची/जिल्हाधिकारी यांची परवानगी घेणे बंधनकारक होते. परंतु या काळातयाच्या असे निदर्शनास आलेले आहे की, अर्भजित मिळकतीवरील केलेल्या याचकागामधील ३रा, ५ वा (काही भाग), ६ वा मजला अनुक्रमे दि. १४/०९/२०१२, दि. २८/०३/२०१३ च दि. २६/०३/२०१४



04/09/2007 10:27 AM



श्रीमतीच्या भद्रागणेशाद्वारे या कार्यवाह्याच्या प्रस्तावनातील भाग ३-४ नव्याने घालणे करण्यात आलेल्या होता. तसेच सदर वायव्यभाषणीत येवजणे, ४ भाषणे या प्रस्ताव (कार्यवाही) दि. ३१/०१/२०१३ रोजीच्या वायव्यभाषनेत या कार्यवाह्याच्या प्रस्तावनातील भाग ३-४ नव्याने घालणे करण्यात आलेल्या आहे. त्यामुळे शासनाने या कार्यवाह्याचे प्रकरणे विचारण्यात येऊ शकते हे हे अधिकार हा विक्री करून घेतले. त्यामुळे शासनाने येथे असलेली प्रस्तावनाची प्रकृत प्रस्तावना विधानाच्या नव्याने घालणे शासनाने या कार्यवाह्याचे प्रकरणे घेतले आहे. तसेच प्रकरणे घेतले आहेत. शासनाने या कार्यवाह्याचे प्रकरणे घेतले आहे. प्रकरणे घेतले आहेत. प्रकरणे घेतले आहेत.

उपरोक्त शासनाच्या अस्तित्वात पत्र कंपनी महागट्ट विद्येटर प्रा. लि. यांना या कार्यवाह्यात दि. १९/०८/२०१९ दि. ०६/०९/२०२१ व दि. २९/०९/२०२१ रोजी भाटीय दिलेल्या आहेत तसेच देता बँक (बँक ऑफ इंडिया) यांचे दि. १९/०८/२०१९, दि. ०६/०९/२०२१, व दि. २९/०९/२०२१ रोजी नाटीसा दिलेल्या प्रतिवादी क्र. ४ नं. ९ यांना देखील दि. ०६/०९/२०१९ रोजी नाटीसा दिली आहे, या प्रकरणी वेळोवेळी सुनावणी आयोजित करण्यात आली. परंतु कोर्टाच्या १९ च्या प्रस्तावांमुळे पुढे सुनावणी होऊ शकली नाही. तसेच प्रकरणे असाहजक बँकेकडून कर्न इतरणी केली असून वेस्टमिंटचा भाग लिखितवाह्ये द्वारे शासनाची याच नव्याने या कार्यवाह्याच्या निर्देशात आलेली आहे.

उपरोक्त याच विचारात घेता, मोठे चांद्र ता. अर्धरी सा. नं. ३४१ अ मधील ४९२५ चॅम्प्री क्षेत्र हे शासनाने महागट्ट विद्येटर प्रा. लि. यांचा प्रदान केलेल्या आदेशातील. तसेच वेळोवेळी दिलेल्या परवातगी संदर्भातील आदेशात नमूद अटो व शासनाच्या शासनाच्या अस्तित्वात भाडेगट्ट्या करारनामा दि. ०९/१२/२००५ मधील अटी व शर्तीचा भाग शासनाचे दिवस घेत असल्यामुळे सदर शासकीय जमीन त्यावरील इमारत बांधकामासह शासन जमा का करण्यात येऊ नये याबाबत शासनाशी संबंधित म्हण्याचे म्हणणे मांडण्याकरीता या कार्यवाह्यात दि. ०९/०९/२०२२ रोजी ११.०० बाजला सुनावणी आयोजित करण्यात आली आहे. सदर सुनावणीस आपण समक्ष अथवा कायदेशीर प्रतिनिधीमाफत या कार्यवाह्यात न चुकता हजर राहावे. सुनावणीचे वेळी आपण आपले लेखी निवेदनसुद्धा सावर करू शकता.

सदरच्या सुनावणीचे वेळी व दिवशी आपण अथवा आपले कायदेशीर प्रतिनिधी हजर न राहिल्यास आपणास काहीही सांगण्याचे नाही असे गृहित धरून नियमानुसार उचित कायदेशीर कार्यवाही केली जाईल याची कृपया नोंद घ्यावी.

याच प्रकरणात आपण याच नव्याने याच नव्याने

*(Signature)*  
(विकास नाईक)  
निवासी उमजिल्हाधिकारी,  
मुंबई उपनगर

०५/०९/२०२१ १०:३०:३०



True Copy



**Exhibit-M-1****District Collector, Mumbai Suburban District**

Administrative Building, 10th Floor, Government Colony, Bandra  
(East)-51

Fax no. 022-26556805, Telephone No.022-26556799

Email - [collectormsd@gmail.com](mailto:collectormsd@gmail.com)

-----  
Improved Notice

No.: C/DESK-3d/L-  
235/ 2022  
1 April 2022

To,

1. The Director, Maharashtra Theater Pvt. Ltd. R. N. A. House,  
Level-3, 50, Veer Nariman Road Fort, Mumbai- 400013.
- 2.The Manager, Dena Bank (Bank of Baroda), Dena Corporate  
Centre, G Block, Bandra-Kurla Complex, Bandra (East), Mumbai-  
400051,
3. The Manager, Allahabad Bank, Allahabad Bank Building, 2nd  
Floor, M.S. Marg, Fort, Mumbai- 400023.
4. M/S Midday Infomedia, R.N.A. Corporate Park, Near Western  
Expressway, Kalanagar, Banda (E), Mumbai-400051,
- 5.M/s V.R.S.M.Enterprise LLP, 2 Sarvodaya Nagar, Jagran  
Building, Kanpur 208005.

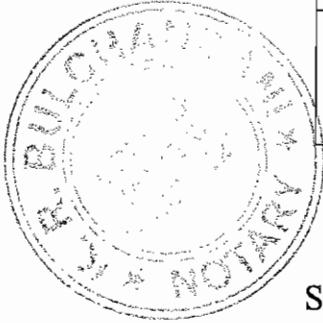


6. M/s Broadcast Ltd., 5<sup>th</sup> floor, R. N. A. Corporate Park, Near  
Western Expressway, Kalanagar, Bandra (East), Mumbai- 400051.

**Subject :- Land : Mumbai Suburban District**

Regarding breach of the condition of the land at  
Mouje Bandra, Tahsil – Andheri, Survey No. 241A  
granted on lease to the Maharashtra Theater Pvt. Ltd.

Ref – 1)	1) Government Memorandum bearing No. 2600/1316/C.No.292/L- 3, 07/11/2001 Government Revenue and Forest Department
2)	The order of this office bearing No.11/3D/L – 0235, dated 12/12/2001
3)	The order of this office bearing same number, dated 22/02/2021
4)	The application dated 12/01/2022 of M/s Mid Day Info Media.

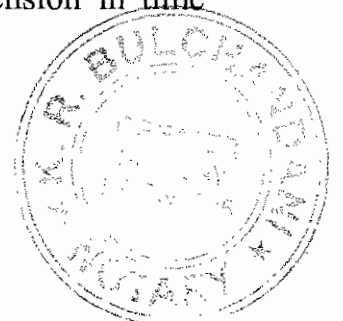


Vide the Government decision dated 18/06/1969, the land in  
Survey No. 341 A, area – 4515 Sq. Mt., at Mouje Bandra, Tahsil –  
Andheri has been granted on 99 years lease on some terms and  
conditions to the Maharashtra Theatre Pvt., Ltd. Thereafter,  
according to the request of the company vide the Government  
Memorandum dated 09/07/1981, 30/06/1994 and finally on dated  
07/11/2001, the permission of changes in use was given.

According to the said permission, the District Collector by determining the lease amount on dated 12/12/2001, the order regarding changes in use was issued with some terms and conditions and after the said order registered an agreement with the Maharashtra Theatre Pvt. Ltd.

After taking into consideration the granting of the land to Maharashtra Theatre Pvt., Ltd, the time to time permission of government for changes in the use and permission given by this office, agreement prima facie it is seen that the breach of condition has been occurred as mentioned hereunder.

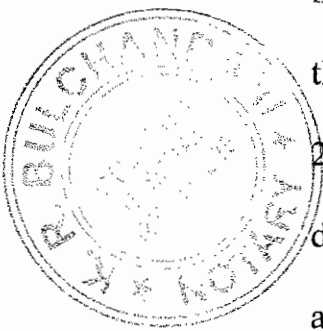
**1. Not completing construction within the time limit:-** While granting change of use permission to the company, according to the Condition No.(A) of Government dated 15/11/2001, it was stipulated that construction should be completed within 2 years from the date of permission and actual use should be started. However, in the case, when the records of this office were verified, it seen that the completion certificate was received by M/s Maharashtra Theatre from the Municipal Corporation on dated 07/07/2006. Accordingly, the amount towards extension in time



132

limit for construction informed by this office vide letter dated 04/01/2018 has not been paid to this office.

**2. Non- Paying of Lease:-** After allotment of land to the company, the company requested for change of use from time to time and finally as per the Govt. Memorandum dated 07/11/2001 and the letter dated 12/12/2001 of this office, the lease was levied and pertaining to the lease the same is mentioned in detailed in the Para No. 4, of the agreement dated 05/12/2005. In the agreement dated 05/12/2005 also in paragraph no. 4 the said matter has been mentioned in detail in respect of lease. The concerned company has paid the lease amount till the year 2013 and after that the company has sublet the said premises to various offices. However, as mentioned in condition no. 4 of the agreement, the permission of this office as per the government decision dated 23/11/2001 and 28/08/2004 has not been taken and accordingly the lease amount due till date has not been paid and thus Condition No. 4 of the agreement dated 05/12/2005 has been breached.



**3. Pledge to financial institutions, Non-payment of unearned amount of government:** - After granting the said land to the Maharashtra Theater Pvt. Ltd., the concerned had sought

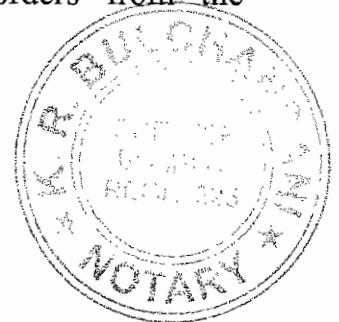
permission to get loan from the financial institution for the development of the land. Vide the Government Memorandum dated 04/09/1997 and District Collector's order dated 01/01/1998 permission was granted to the said company for raising loans from financial institutions subject to the following conditions :-

In the Government Memorandum dated 04/09/1997 and in the No. (1) to (5) of the District Collector's order dated 01/02/1998 in mentioned as hereunder:-

1) If the lending financial institution decides to sell any part of the plot or leasehold, then following amount as the first charge will have to pay the government and the mortgagee will meet their demands from the remaining amount.

a) Lease arrears, if any, and amounts payable as per agreement.

b) For the purpose of determining the 50% amount as unearned income on the unearned income derived from the sale of the said land, the Collector, Mumbai Suburban District or any other officer appointed by the Government for the purpose shall determine such unearned amount and, if necessary, obtain orders from the Government at that time.



134

2) Without giving 90 days' notice to concerned financial institution, the agreement with Maharashtra Theater Pvt. Ltd., will not be terminated or the land will not be repossessed. The intention is that if there is a possibility of remedying the breach, the opportunity to do so should be available to the concerned financial institution.

3) In the said case, after raising the loan from the financial institution, the certificate from that institution and certificate regarding the suitable use of the loan shall submit to the government.

4) The District Collector has to ensure that Maharashtra Theater Pvt. Ltd. has not violated any condition and if any violation of condition is brought to the attention of the District Collector, the land will be restored.

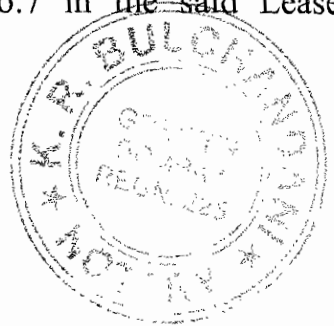
5) It shall be mandatory for the company to inform the Collector of the name and agreement of the financial institution from which the company is going to raise the loan, otherwise these orders will be void.

However, you have not complied with Memorandum dated 04/09/1997 and the Collector order dated 09/01/1998 and that



means the terms No.2, in the agreement dated 05/12/2005 has been breached.

**4. Transfer without permission:-** It is mandatory for the lessee to obtain the permission of the Government/Collector before transferring, selling or mortgaging the land or any part of the leased land. But this office has observed that the 3rd, 5th (certain parts), 6<sup>th</sup> floor of the construction made on the property in question has been mortgaged with bank vide the mortgage deed dated 14/09/2012, dated 28/03/2013, 26/03/2014 respectively without permission of this office. As well, without permission of this office, the basement, 4<sup>th</sup> floor and some part of the 5<sup>th</sup> floor of the said construction has been mortgaged with Allahabad Bank vide the mortgage deed dated 31/01/2013 similarly, in the said case the said floors has been sold through e-auction without permission. Therefore, the unearned income due to the government has not been received by the government and due to this government has suffered revenue loss. As well in the said case, the interest of the third person institution has been established on the government land granted on lease, the condition No.7 in the said Lease Agreement has been violated / breached.



Pertaining to the above mentioned violation this office has sent the notice dated 29/08/2019, 06/01/2021 and dated 22/02/2021 to the original company Viz. Maharashtra Theatre Pvt. Ltd. as well sent notice dated 29/08/2019, 06/01/2021 and dated 22/02/2021 to the Dena Bank (Bank of Baroda). The notice dated 06/01/2021 has been sent to the Defendant No.4 to 6 also. The said matter has been heard on time to time. However, due to Epidemic of Covid – 19, the said matter could not heard further. As well, in the said case, loan has been raised from Allahabad Bank and it this office newly noticed that part of the basement has been sold through e – auction.

By taking into consideration the above – mentioned things that the terms and conditions in order regarding conferring area of 4515 square meter in the Survey No.341A, at Mouje Bandra, Tahsil – Andheri to the Maharashtra Theatre Pvt. Ltd., and terms and conditions in the permission given on time to time and terms and conditions pertaining to the said land in the lease agreement dated 05/12/2005 are appeared to be violated hence hearing has been arranged in this office on dated 07/04/2022, at 11.00 for presenting your says in this case on the issue that why the said government land along with the construction of building thereon should not be possessed from you to the government. Hence attend





at the said hearing either in person or through your legal representative without fail. You may submit your written submission during hearing.

If on the date and time of the said hearing either you or your legal representative is not attended then by assuming that you have nothing to say in this regard and further legal action will be taken, please the same should be noted.

Sd/-

(Vikas Naik )

Residential Deputy Collector

Mumbai Suburban District



Exhibit N

BB

~~"BB"~~

1

BEFORE THE COLLECTOR MUMBAI SUBURBAN  
DISTRICT  
ADMINISTRATIVE BUILDING, 10<sup>TH</sup> FLOOR,  
OPP. CHETNA COLLEGE, BANDRA (E), MUMBAI  
400051

IN THE MATTER OF

AMENDED SHOW CAUSE LETTER OF 1<sup>ST</sup> APRIL, 2022

CASE NO. KRA.SI/KARYA-3D/L-235/\_/2022 DATED 01.04.2022

*(Herein after referred to as "said Notice")*

In respect of property being a leasehold plot bearing CTS no. 629/1252 admeasuring 4515 sq meters ("said land") along with building thereon known as RNA Corporate Centre situated at Village Bandra (East), Mumbai - 400 051 (Hereinafter collectively the "said Property") which is leased to Maharashtra Theatres Pvt. Ltd vide Lease Agreement dated 5<sup>th</sup> December, 2005

Issued to

1. Maharashtra Theatres Pvt. Ltd
2. Dena Bank (now known as Bank of Baroda)
3. Allahabad Bank
4. M/s Mid-Day Infomedia Pvt Ltd
5. M/s VRSM Enterprises LLP
6. M/s Music Broadcast Ltd.... RESPONDENTS



139

WRITTEN SUBMISSIONS / REPLY ON BEHALF OF  
RESPONDENT No.1 TO THE SAID SHOW CAUSE IS AS UNDER:

MOST RESPECTFULLY SHEWETH AS FOLLOWS:

1. That the Respondent No. 1 is represented through Adv Vidya Adsule and the Vakalatnama thereof is enclosed hereto and present Written Arguments/Reply have been signed, verified and filed by Advocate Vidya Adsule on behalf of Respondent No. 1 and the Respondent No. 1 reserves their right to file additional Written Submissions.
2. That the notice dated 01.04.2022 ("said notice") was issued by the Collector to the above-mentioned Respondents including the Respondent No. 1 wherein the Hon'ble Collector had issued the said Show Cause Notice seeking explanations on the following issues viz: -
  - a. *Building not constructed within the timeline stipulated*
  - b. *Nonpayment of lease rent and Unearned Income*
  - c. *No payment of Un-earned income when the said property being mortgaged to banks/ financial institutions*
  - d. *Transfer of the said property /part thereof without seeking permission from the Hon'ble Collector, Mumbai Suburban District.*



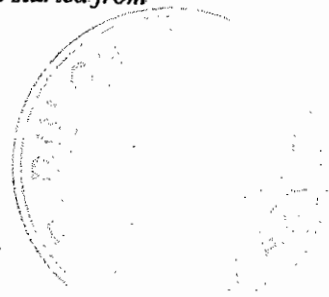
120

colly" are the copies of the said replies and the said GR dated 27.02.2009.

4. The said Respondent No. 1 also states that it has received a copy of the reply dated 07.04.2022 from Respondent nos. 4 to 6 ("said copy of the reply") on the date of the scheduled hearing and Respondent No. 1 denies all allegations made by them against Respondent in their replies as the same are baseless and with malafide intention and are denied in totality.

5. The said Respondent states that before dealing with the contents of the said notice, the said Respondent No. 1 wishes to bring out the important facts, averments, contentions and submissions as under:

a. *The said land being owned by Government of Maharashtra bearing S. No. 341A admeasuring 4515 sq.mtrs situated at village Bandra (E) was given on lease on 18.06.1969 and 11.09.1969 to Respondent No. 1 for a period of 99 (hiney nine years) for construction of Theatre. Thereafter, the possession was handed over to the said notice and accordingly lease period started from 02.01.1970.*



3. The said Respondent states that they had already filed and submitted their detailed replies vide their letters both dated 23.03.2021 ("said replies") before the Hon'ble Collector, Mumbai Suburban District in response to the Notice bearing No. C/Desk-3D/L-235/625/2019 dated 29.08.2019 and 22.02.2021 wherein the said Respondent had brought out all the relevant facts and requested the Hon'ble Collector Mumbai Suburban District to not only order/declare the transfer of the auctioned property under question as Null and Void as Respondent no.2 and Respondent no.3 had not committed serious breach by not following the mandatory procedure under GR dated 27.02.2009 but also cause huge loss of revenue to the State Exchequer. The said Respondent No. 1 repeats, reiterates all that it has been mentioned in the said replies and states that the same may be treated as part and parcel and to be read along with the present Replies. The said Respondent No. 1 further also submits that that the said replies shall be treated as integral part of this Written Submissions/ Reply and that the same may be read and construed together. Hereto annexed and marked as "Exhibit A



142

and thereafter they shall not make any alterations in or additions thereto unless such alterations and additions shall have been approved by the MCGM"

Clause 7: "that the lessee shall not directly or indirectly transfer, assign, encumber, mortgage land or part with its interest under or benefit of this lease of land in manner thereof, without the previous consent in writing of the Government. Government will be free to refuse such consent or grant it subject to such conditions including a condition regarding

The said Respondent No. 1 relies upon its true interpretation and meaning as given hereinbelow.

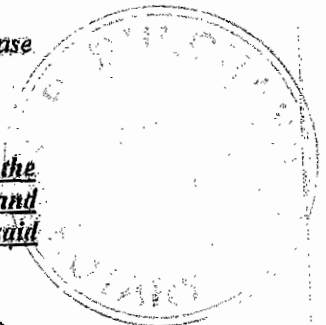
6. Without prejudice to the rights and contentions, the said Respondent No. 1 shall now deal with the issues mentioned in the said Notice.

7. With reference to issue no.1 "FAILURE TO CONSTRUCT ON TIME", the said Respondent No. 1 submits that  
Vide order dated 12.12.2001, Hon'ble Collector had granted permission for change of user i.e. to use 10% for theatre and 90% for office purpose. Pursuant to said Order, said Respondent no. 1 had applied to the Executive Engineer, Building Proposal, W.S. Bandra (MCGM) for approval of the building plans. But the Executive Engineer (B.P.) W.S. declined our request and therefore, the said Respondent No. 1 were compelled to move in appeal



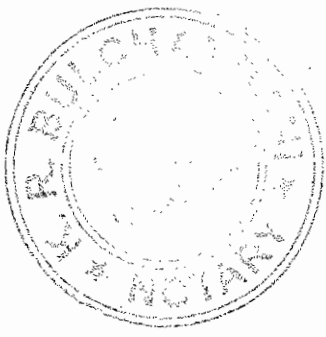
- b. That change of user from Theatre to other permissible user was granted by State Government from time to time and lastly permissible user was approved for 1 FSI, 10% FSI for Theatre use and 90% for office use vide State Government GR dated 15.11.2001.
- c. Subsequently, the Government vide its GR dated 20.03.2002 have granted permission to avail the benefit of TDR on payment of provisional 3% premium at rate of Rs 327/ sq. mtrs subject to finalisation of policy from State Government and if differential amount arise after fixation of policy same shall be paid by the lessee and this differential amount was arrived at and have been paid by us. Thereafter, a Lease Agreement was executed between M/s Maharashtra Theatre Pvt. Ltd and the then Collector (MSD) on 05.12.2005 ("said lease agreement") and the same was registered before the Sub Registrar of Assurance. The said Respondent No. 1 wishes to reiterate some of the important provisions in the said Lease Agreement:

Clause 8: "that no work will be commenced on the demised land until the plan, elevations, details and specifications shall have been approved as aforesaid"



145

8. The said Respondent No. 1 further submits that the order in appeal passed by Hon'ble Chief Minister, U.D. Department, Govt of Maharashtra on 11.03.2004 and thereafter the plans were approved by MCGM permitting the development on the plot of land as granted by your office on 12.12.2001. Thus, the order dated 12.12.2001 has become effective and operative only with the order passed in Appeal dated 11.03.2004 after which the order dated 12.12.2001 was implemented and the building plans were approved by the MCGM on 19.06.2004 and Commencement Certificate issued on 08.07.2004 permitting development on the plot of land. As such, the order dated 12.12.2001 was effective and it was implemented from the date of approval of the building plans on 19.06.2004 and Commencement Certificate dated 08.07.2004 permitting development as contemplated in the order. Therefore, it will be imperative to calculate the period of two years for completion of construction only from 08.07.2004 till 07.07.2006 and the said Respondent No. 1 refers to clause 8 of the said Lease Agreement, which is reproduced hereunder:



Clause 8: "that no work will be commenced on the demised land until the plan, elevations, details and specifications





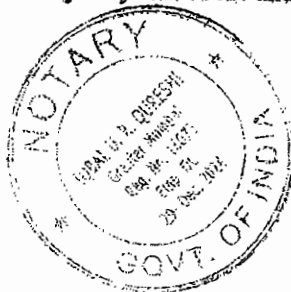
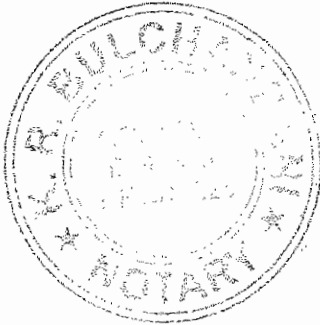
before the Hon'ble Chief Minister, U.D. Dept. Govt. of Maharashtra. In the said Appaal bearing File No. CMS/TPB4303/459/CR220/03/UD-11 Hon'ble Chief Minister passed order on 11.03.2004 (*hereto annexed and marked "Exhibit B" is the copy of order on 11.03.2004 passed by Hon'ble Chief Minister*) and subsequent thereafter the plans were sanctioned by MCGM on 19.06.2004 (*hereto annexed and marked "Exhibit C" is the copy of approval of plans letter dated 19/06/2004 issued by MCGM*) and Commencement Certificate was issued on 08.07.2004. The construction was completed as per the sanctioned plan & OC was issued on 07.07.2006 (*hereto annexed and marked "Exhibit D" is the copy of OC dated 07/07/2006 issued by MCGM*). Incidentally the said Respondent No. 1 would like to submit that previously the then Collector, MSD has raised this issue regarding completion of the construction work within 2 (two) years vide their letters No. 11/3D/LO-235 dated 16.03.2011 and upon clarification submitted by us as explained in para 1 above vide our several letters including the latest reply dated 06/11/2018 which is hereto annexed as "Exhibit E", it appears that the same was accepted by the then Collector, MSD and the matter was closed since no demand for extension in time period for construction was raised.



147

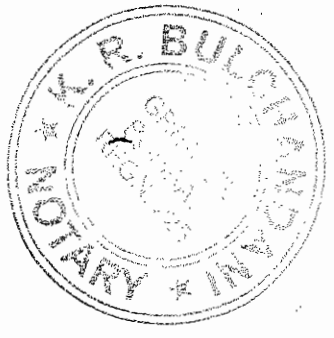
upon a judgement passed by the Hon'ble Bombay High Court dated 20.11.2019 in WP No. 586 of 2018: Raghuleela Builders, M/s Reliance Industries Ltd vs MMRDA wherein the Hon'ble Court had restrained MMRDA from levying or to recover premium for delay in construction beyond prescribed period. Hereto annexed and marked as "Exhibit F" is the copy of the judgement passed by the Hon'ble Bombay High Court dated 20.11.2019. Based on the contentions and the facts and terms and conditions of the said Lease Agreement the said Respondent no. 1 submits that in the above circumstances the cause of action has not at all arrived at to levy the penalty for non-completion of the Construction of the said Building in stipulated time of 2 years and hence the penalty demand proceedings to be dropped.

9. With reference to issue no.2 "NON-PAYMENT OF LEASE/UN-EARNED INCOME", the said Respondent No. 1 submits that as per clause 4 of said lease agreement dated 05.12.2005 the said Respondent No. 1 were required to pay a yearly lease rent and unearned income. The said Respondent No. 1 further states that as per their records they have paid the yearly lease rent and lumpsum yearly unearned income for



shall have been approved as aforesaid and thereafter they shall not make any alterations in or additions thereto unless such alterations and additions shall have been approved by the MCGM.

The said Respondent No. 1 submits that the said clause clearly states that no work shall be commenced unless and until all the plans, elevations etc. have been approved by MCGM. Hence it's very clear that the Respondent No. 1 have completed the construction of the building on the said land within 2 (two) years of the stipulated time and required OC was also received well in time to commence use of the said Building on the said land as per the sanctioned and approved plan. Therefore, the Hon'ble Collector Mumbai Suburban District should have calculated the period of construction for two years from 08.07.2004 to 07.07.2006. The said Respondent No. 1 states the said Respondent No. 1 has already given a detailed reply to the same vide its various reply letters dated 08.03.2004, dated March, 2011, 06.11.2018 and 23.03.2021. The said Respondent No. 1 refers to and relies upon the said letters dated 08.03.2004, dated March, 2011, 06.11.2018 at the time of hearing. The said Respondent No. 1 also places reliance



(a) The amount outstanding towards the lease, rent and any other amounts due as per the lease agreement

(b) For the purposes of determining 50% of the unearned income from the sale amount of the said land, the collector, Mumbai Suburban or any other office appointed by the Government for such purpose shall determine unearned income and if required shall obtain the order of the government.

2. Ninety (90) days notice is given to the concerned financial institution, the agreement entered with MTPL will not be terminated or the land will not be reclaimed. If there is a possibility of redressal of the grievance, the opportunity to do is relevant and the same should be available to the financial institution.

3. In this case, after raising the loan from the financial institution, the certificate from that institution and the suitability of that loan and a copy of the certificate should be submitted to the government.

4. That MTPL has assured the District Collector that it has not violated any condition and that in the event if MTPL has violated any condition then the said land will be reclaimed again by the Collector.

5. Name and agreement of the financial institution from which the company is going to raise the loan, it will be mandatory to inform the Collector, otherwise, the orders will become invalid.



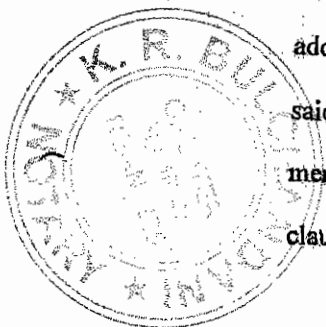
11. From the bare perusal of the above provisions it is very clear interpretation that the unearned income payable is not on sale, transfer, assignment, lease, mortgage of the units comprising the said building known as "RNA Corporate Park" but is ONLY payable if the said land or any part thereof is



letting out units on timely basis to Hon'ble Collector/ Treasury of the Government, and the Lease Rent have been paid till year 2016-2017 and unearned income have been paid till year 2014-

15. However due to unforeseen circumstances and reasons beyond the control of the said Respondent No. 1 the payment of yearly lease rent and lumsun yearly unearned income for letting out units is pending thereafter and the Respondent No. 1 is ready and willing to settle and pay the arrears as per directions of this Hon'ble Collector.

10. The said Respondent No. 1 further states that the said Respondent No. 1 has given parts of the building premises on leave and license to various clients including the said Respondent no. 4 to 6 to whom the said Notice is also addressed by the Hon'ble Collector, Mumbai Suburban. The said Respondent No. 1 draws reference to the conditions mentioned in memorandum dated 04.09.1997, the following clauses have been mentioned:



*1. If a lending financial institution sells the plot or lease rights or any part thereof, then, the lending institution will have to pay the following amounts to the Government and the mortgagor will recover their amounts outstanding amount out of the balance amount.*



151

premium as Government may in its absolute discretion think fit. However, this condition is subject to clause 2 hereinabove and shall not be applicable to the lessee in case if it transfers, assigns, encumbers, mortgages or parts with its interest in respect of the structure/ structure/s" which clearly stipulates that permission/consent of the Government is required in writing only if the said Respondent No. 1 have sold and/or assigned and/or transferred, mortgaged etc whatsoever the said land or part to whomsoever including to any lenders, which is not applicable in the present case, since only the units are mortgaged hence the question of seeking permission from Hon'ble Collector for offering any units in RNA Corporate Park Building from the Hon'ble Collector does not arise and ipso facto the payment of unearned income thereof .



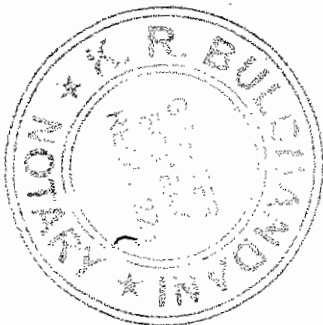
14. The said Respondent No. 1 further states that the said Respondent No. 1 have not mortgaged the said land or part and all loan(s) /facilities the said Respondent No. 1 have availed from different lenders was ONLY by offering the units in the said RNA Corporate Park as the Security towards repayment of the respective loans/ facilities availed by them.



sold, transferred, assigned, leased, mortgaged, etc by the said Respondent to whomsoever.

12. With reference to issue no. 3 "OFFERING THE SAID LAND AS SECURITY TOWARDS LOAN/FACILITIES AVAILED FROM LENDERS WITHOUT PERMISSION AND PAYMENT OF UNEARNED INCOME" the said Respondent No 1 submits that they have NOT sold and/or assigned and/or transferred, mortgaged etc whatsoever the said land to whomsoever including to any lenders. The said Respondent No 1 submits that they have mortgaged various units which are constructed on the said land to various lenders.

13. Further, the said Respondent No. 1 wishes to reiterate clause no. 11 (vii) of the lease agreement, "that the lessee shall not directly or indirectly transfer, assign, encumber, mortgage land or part with its interest under or benefit of this lease of land in manner thereof, without the previous consent in writing of the Government. Government will be free to refuse such consent or grant it subject to such conditions including a condition regarding the payment of

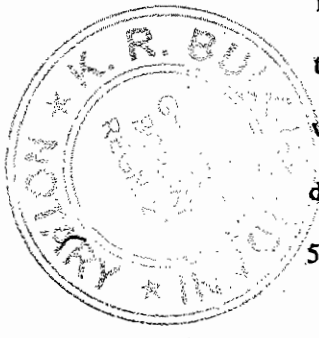


assigned and/or mortgaged the said land and/or any part thereof to any lenders (financial institutions/Bank) for which it has to take the permission of the Government and that they have mortgaged and offered security the various units in the said building on the said land to different lender (banks/ financial institutions) towards repayment of the loans/facilities availed by them and not the said land. The said Respondent No. 1 further states that in addition it is submitted that as provided under Schedule "A" of the GR No. Jamin 2000/CR-135/J-1 dated 27.02.2009 at item no.1 it is made mandatory on part of the Lenders (Banks/FIs) to whom the structure was mortgaged, in this case the said Banks (here the DENA Bank and Allahabad Bank- Respondent No. 2 and 3 herein) to approach the Hon'ble District Collector submitting details like estimated value of the property the lenders needed to auction for the recoveries of sum of loan/ borrowings outstanding to be recovered etc by them respectively from the said Respondent No. 1. and they should have obtained prior permission from the Collector for the proposed auction which they seem to have deliberately failed and neglected with an intention to defraud the State Exchequer of their rightful revenue. In the





15. In addition, it is submitted that, as per the terms of lease agreement dated 05.12.2005 particularly as stipulated in clause 11 (vii) the said Respondent No. 1 are permitted to obtain finance by mortgaging the structure or any part of it and for that by the said Respondent No. 1 is not required to obtain any permission from the Collector, MSD or inform them about it. The said Respondent No. 1 further states that though the said Respondent No. 1 was inclined to take loan and keep the said land as collateral for the purposes of construction of the building, the same was not taken and therefore there was no necessity to inform the Government of the same. Therefore, the said Respondent No. 1 has not committed breach and/or violated any of the terms and conditions of the notification dated 04.09.1997 and also of the said Lease Agreement dated 5<sup>th</sup> December, 2005.



16. With reference to issue no.4 (clause 2 (d) herein) "TRANSFER WITHOUT PERMISSION" the said Respondent No. 1 in reply submits and reiterates what it has mentioned hereinabove that they have not transferred and/or



155

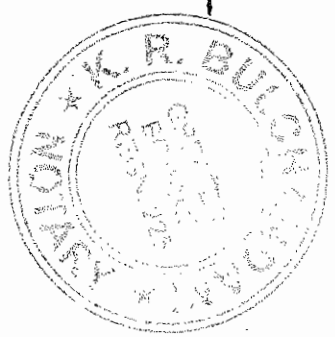
18. In this case, since the DENA Bank and Allahabad Bank i.e. Respondent no.2 and 3 have stepped into the shoes of the said Respondent no. 1, in the absence of the DENA Bank and Allahabad Bank i.e. Respondent no.2 and 3 not paying the rent, it is the owner/possessor of the auctioned purchaser has to pay all the due amount to the Government. It is also requested to be taken cognizance of the fact that DENA Bank and Allahabad Bank i.e. Respondent no.2 and 3 have breached of above referred existing provisions and violated laid down procedure to be followed before selling the respective units/property by auction in much lower price than the prevailing market price and said Respondent no. 1 further most vehemently submits that the DENA Bank and Allahabad Bank i.e. Respondents no.2 and 3 in connivance with the M/s Midday Infomedia (Respondent No. 4), M/s VRSM Enterprises LLP (Respondent No. 5) and M/s Music Broadcast Ltd (Respondent No. 6 have malafidely with ulterior motives and for personal unlawful gains respectively have completed transaction of sale of the respective units in order to defraud the State Exchequer and have committed fraud upon the State as well caused huge financial loss to Respondent No. 1 as the



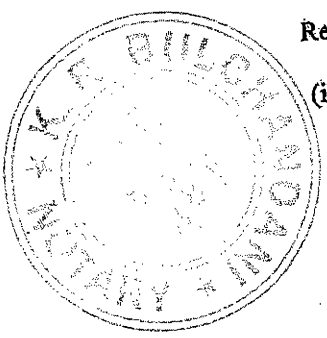
present case, DENA Bank and Allahabad Bank (Respondents 2 and 3) respectively have failed to comply with both these mandatory obligations on their part and have auctioned the respective units at a meager value without payment of unearned income amounts and other outstanding respectively to the Government. The said Respondent further states that in any case if the DENA Bank and Allahabad Bank i.e. Respondent no.2 and 3 refuses to pay or does not pay the sum of unearned amount due to the State Government then as provided in clause 11(i) of the lease agreement

17. *"the lessee hereby for themselves, their successors, respective heir, executors, administrators and permitted assigns covenants with the lessor the following.."*

*(i) During the said term hereby granted to duly pay the lessor the said rent at the time and on the day..... To duly pay all the existing and future taxes, rates, charges, assessment and outgoing of every description for the time being payable by either by the lessee or by the occupier in respect of the demised premises and any things for the time being thereon"*



shall be caused to said Respondent No. 1 in the event the prayers as below are not granted. Therefore, the said Respondent No. 1 most humbly prays that:



- (i) Since they have not violated and/or committed breach of the terms and conditions of the said Lease Agreement dated 5<sup>th</sup> December, 2005 and other GRs etc as set forth in the said notice the Hon'ble Collector may be pleased to withdraw and/or dispose of the show cause and the contentions / issues raised in the said notice and further not to impose any penalty in respect of "Construction to be completed in stipulated time" as the said Respondent No. 1 as explained hereinabove have completed the construction of the said building on the said land in stipulated time
- (ii) to order/declare the transfer of the said auctioned property under question as NUL and VOID as the Bank had not only committed serious breach but also caused huge loss of revenue to the State Exchequer by undervaluation and not seeking permission for sale/transfer of their respective units.

Dated this 25<sup>th</sup> day of April, 2022;

Advocate for Respondent No. 1

**MRS. VIDYA VIJAY ADSULE**

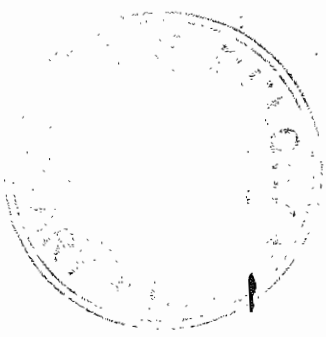
Advocate, Bombay High Court,  
B.com, LLB, DCS, DMS  
2304, Sea Flats, Dosti Flamingos, Tokershi Jivraj Road,  
Sewri (West), Mumbai-400034, Maharashtra  
Email: vidya\_adsule@hotmail.com Mobile: 9820033198  
Enroll No. MAH/1670/1989 & O.S. NO. 13717



residual post adjustment of the outstanding loan amounts would be the entitlement of Respondent No. 1.

19. The Respondent no.1 hereby submits that part attachment of units the said Respondent no.2 and 3 respectively tried to auction sale the units (under reference/subject matter), however, Respondent no.1 challenged the valuation of the said units by Respondent no.2 Bank and Respondent no.1 conducted valuation of the said units from an independent valuer and Respondent no.1 also challenged the valuation in Debt Recovery Tribunal, Mumbai and the Debt Recovery - Mumbai appointed an independent valuer who has also given the valuation report. However, the said Banks disregarding the DRT-Mumbai valuation have auctioned/sold the said units to Respondent nos. 4, 5 and 6 respectively. However, Respondent no.1 have also challenged the auction sale in the Hon'ble Bombay High Court and the same is pending. Hereto annexed and marked as "Exhibit G" are the valuation report presented by the independent valuers vis-à-vis the valuation report presented by the valuer appointed by Respondent no.2

20. The balance of convenience is in favour of the said Respondent No. 1 and grave and irreparable loss and harm



True Copy

*[Handwritten Signature]*

Advocate for Plaintiff / Petitioner/s



# जिल्हाधिकारी, मुंबई उपनगर जिल्हा

प्रशासकीय इमारत, १० वा मजला, शासकीय वसाहत, बांद्रा (पू)-५१

फॅक्स क्र. ०२२-२६५५६८०५ दुरध्वनी क्र. ०२२-२६५५६७९९ ईमेल- collectormsd@gmail.com

नगर भूमापन अधिकारी कार्यालय

क्रमांक : सी/कार्या-३डी/एल-२३५/७३६/२०२२

अन्वये

१. महाराष्ट्र थिएटर प्रा. लि.

अन्वये

२. मे.मिडडे इन्फॉर्मिडीया लि.,

अन्वये

३. मे.व्ही.आर.एस.एम. इन्टरप्राइज एलएलपी

अन्वये

४. मे. म्युझिक ब्रॉडकास्ट लि

अन्वये

५. देना बँक (आता बँक ऑफ बडोदा)

अन्वये

६. अलाहाबाद बँक (आता इंडियन बँक)



28 JUL 2023

28 JUL 2023

विरुद्ध

महाराष्ट्र शासन

कार्यभूमि :

मौजे वांद्रे ता.अंधेरी स.नं.३४१अ मधील ४५१५ चौ.मी. जमीन ९९ वर्षांच्या भाडेपट्ट्याने सिनेमा थिएटरसाठी महाराष्ट्र थिएटर प्रा.लि.यांना शासन निर्णय दि.१८/०६/१९६९ व जिल्हाधिकारी कार्यालयाकडील आदेश दि.११/०९/१९६९ अन्वये काही अटी व शर्तीवर प्रदान करण्यात आली होती. सदर जमीन प्रदान आदेशानुसार दि.०२/०१/१९७० अन्वये प्रश्नांकीत मिळकतीचा ताबा भाडेपट्टेदार यांना देण्यात आला.

प्रकरणी शासनाने कंपनीच्या विनंतीनुसार शासनाने दि.०९/०७/१९८१ रोजीच्या जापनाव्ये ०.४५ चटईक्षेत्र सिनेमागृहासाठी ०.१५ चटईक्षेत्र बँक व दुकानाचे गाळे यासाठी रु.३२७/- चौ.मी. दराने जमिनीच्या किंमतीच्या ५% भाडेपट्टा तसेच ०.४० चटईक्षेत्र हॉटेलसाठी जमिनीच्या चालू बाजारभावाच्या ८% भाडेपट्टा आकारून परवानगी देण्यात आली.

तदनंतर शासन जापन दि.३०/०६/१९९४ अन्वये महाराष्ट्र थिएटर प्रा.लि. (कलामंदिर वांद्रे) यांनी त्यांना शासन जापन दि.०९/०७/१९८१ अन्वये जमिनीच्या वापरात करून दिलेल्या बदलात पुन्हा बदल करून मिळण्याबाबत केलेल्या विनंतीच्या अनुषंगाने विकास नियंत्रण नियमावलीतील तरतुदीच्या अधीन राहून प्रश्नांकीत जमिनीसाठी अनुज्ञेय ठरणान्या चटईक्षेत्रापैकी १० टक्के चटईक्षेत्र चित्रपटगृहाकरीता, १० टक्के चटई क्षेत्र दुकाने तथा बँक याकरीता आणि उर्वरित ८० टक्के क्षेत्र हॉटेलकरीता वापरण्यास दि.०९/०७/१९८१ च्या आदेशातील अटी/शर्ती तसेच याबाबत जिल्हाधिकारी यांना योग्य वाटतील अशा अतिरिक्त अटींवर देण्यास शासनाने मंजूरी दिली. तसेच महाराष्ट्र थिएटर प्रा. लि. यांना मंजूर केलेल्या जमिनीकरीता वरीलप्रमाणे अनुज्ञेय होणाऱ्या चटईक्षेत्राचे १० टक्के, १० टक्के व



पारित अधिकारी  
२००५ अक्टोबर २५

८० टक्के अशा प्रकारे विभाजन करण्यासाठी शासनाने मंजूरी दिली. वरील जमिनीपैकी हॉटेलकरीता वापरल्या जाणाऱ्या ८० टक्के जमिनीकरीता मूळ अटीतील तरतुदीप्रमाणे प्रति चौ.मी. रु.१५००/- या दराने होणाऱ्या किंमतीच्या ८ टक्के दराने भाडे आकारण्याबाबत निर्देशीत केलेले होते. त्यानुसार जिल्हाधिकारी कार्यालयाकडून दि.१९/०७/१९९४ रोजी आदेश पारित करण्यात आले होते.

प्रकरणी भाडेपट्टेदार महाराष्ट्र थिएटर प्रा. लि.यांनी आकारण्यात आलेल्या भुईभाड्याबाबत शासनाकडे मुद्दे उपस्थित केले होते. त्यानुषंगाने शासनाने दि.११/११/१९९४ रोजीच्या पत्रान्वये पुढीलप्रमाणे स्पष्टीकरण दिले आहे.

अ. चित्रपटगृह, दुकाने व बँका या प्रयोजनासाठी वापरण्यात येणाऱ्या जमिनीकरीता दि.०९/०७/१९८१ च्या शासन आदेशातील अटी व शर्तीनुसार रु.३२७/- प्रति चौ.मी. या जमिनीच्या किंमतीवर आधारित तसेच दुकाने व बँकाकरीता उपयोगात आणणाऱ्या क्षेत्राकरीता अनर्जित रक्कमेच्या ५०% रक्कम भाडेपट्टेदाराकडून वसूल करावी व जमिनीचे भुईभाडे ५% आकारण्यात यावे.

ब. शासनाने चित्रपटगृह, बँक तथा दुकाने व हॉटेल अशा वेगवेगळ्या प्रयोजनासाठी मंजूरी दिलेली असल्याने, भूखंडाचे विभाजन करणे क्रमप्राप्त आहे. सबब, चित्रपटगृह, बँक तथा दुकाने व हॉटेलकरीता वापरण्यात यावयाच्या जमिनीचे २०% व ८०% याप्रमाणे विभाजन करण्यास हरकत नाही.

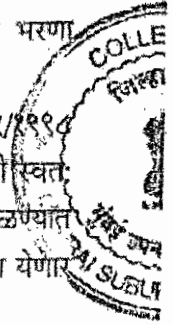
त्यानुषंगाने भाडेपट्टेदार यांनी भाड्यापोटी मिळणाऱ्या निव्वळ नफ्याच्या ५०% अनर्जित रक्कम भरणा करणेबाबत हमीपत्र दि.२५/११/१९९४ रोजी जिल्हाधिकारी कार्यालयास सादर केले आहे.

तद्नंतर प्रकरणात शासन जापन दि.२०/०८/१९९७ तसेच या कार्यालयाकडील आदेश दि.०१/०१/१९९० आदेशान्वये शासन जापन दि.०९/०८/१९८१ च्या परिच्छेद ३ (ii) मध्ये नमूद असलेली भाडेपट्टेदार कंपनी स्वतः हॉटेल चालवेल व हॉटेल चालविण्यासाठी इमारतीतील जागा ते इतर कोणालाही देणार नाही. ही अट वगळण्यात आली. मात्र भाडेपट्टेदाराला जमिनीच्या भाडेपट्ट्याचे हक्क कोणत्याही मार्गाने हस्तांतरण किंवा विक्री करता येणार नाही. असे आदेशीत करण्यात आले.

प्रकरणी शासन जापन दि.०४/०९/१९९७ व दि.०१/०१/१९९८ अन्वये मौजे वांद्रे स.नं.३४१ अ येथील महाराष्ट्र थिएटर प्रा.लि. यांना प्रदान केलेल्या जमिनीच्या भाडेपट्ट्याचे हक्क तारण ठेवण्यास व प्रश्नाधीन जमीन आजच्या बाजारभावाने होणाऱ्या किंमतीइतके कमाल मर्यादेपर्यंत कर्ज उभारण्यासाठी कंपनीस अटी व शर्तीवर परवानगी देण्यात आली होती.

तद्नंतर प्रकरणी शासनाने दि.०७/११/२००१ रोजीच्या जापनान्वये संस्थेने जमिनीच्या वापरासंदर्भात अनुज्ञेय प्रयोजनामध्ये पुन्हा बदल करून मिळण्याबाबत केलेल्या विनंतीच्या अनुषंगाने विकास नियंत्रण नियमावलीतील तरतुदीच्या अधिन राहून प्रश्नांकीत जमिनीसाठी अनुज्ञेय ठरणाऱ्या चटईक्षेत्रापैकी १०% चटईक्षेत्र चित्रपटगृहाकरीता ९०% चटईक्षेत्र कार्यालये याकरीता अटी व शर्तीवर परवानगी देण्यास मंजूरी दिली. त्यानुषंगाने जिल्हाधिकारी कार्यालयाकडून दि.१२/१२/२००१ अन्वये आदेश पारित करण्यात आलेले आहेत.

त्यानंतर प्रकरणात संस्थेने टीडीआर वापरण्यास केलेल्या विनंतीच्या अनुषंगाने शासन निर्णय दि.०३/०३/१९९९ व दि.०९/०७/१९९९ मधील तरतुदीनुसार शासन जापन दि.२०/०३/२००२ व जिल्हाधिकारी कार्यालयाकडील आदेश दि.२२/०४/२००४ अन्वये शासकीय भूखंडावर, सदर भूखंडाच्या भाडेपट्ट्याच्या किंमतीच्या ३% दराने तात्पुरते अधिमूल्य आकारून नेहमीच्या अटी व शर्तीवर टीडीआर वापरण्यास परवानगी देण्यात आली. तसचे भाडेपट्टेदार संस्थेसोबत दि.०५/१२/२००५ रोजी भाडेपट्टा करारनामा देखील करण्यात आलेले आहे.



माहिती अधिकाऱ्यांचे अधिनियम  
२००२, च्या अधिनियम क्र. १७

भाडेपट्टेदार संस्थेने विहित वेळेत बांधकाम पूर्ण केलेले नसल्याचे निदर्शनास आल्याने शासन निर्णय दि.११/०१/२०१७ अन्वये शासनाने निश्चित केलेल्या धोरणाप्रमाणे दि.१२/१२/२००३ ते दि.०७/०७/२००६ या कालावधीतील एकूण ३ वर्षाकरीता बांधकाम मुदतवाढीची रक्कम रु.१,०७,८८,६००/- भरणा करणेकामी संस्थेस जिल्हाधिकारी कार्यालयाकडील दि.०४/१०/२०१८ रोजीच्या पत्रान्वये कळविण्यात आले होते.

तदनंतर १) मिड डे इन्फोमिडीया लि., २) मे.व्ही.आर.एस.एम. इंटरप्रायझेस एलएलपी व ३) म्युजिक ब्रॉडकास्ट लि. यांनी अनुक्रमे ६ वा, ३ रा व ५ वा मजला हा ई-ऑक्शन ने घेतलेला असून तो तारण ठेवणेसाठी परवानगी मिळणेची विनंती या कार्यालयाकडे केलेली होती. सदर अर्जांचे व जिल्हाधिकारी कार्यालयाकडील अभिलेखाची पडताळणी केली असता भाडेपट्टेदार यांनी पुढील प्रमाणे शर्तभंग केले असल्याचे कार्यालयाच्या निदर्शनास आले.

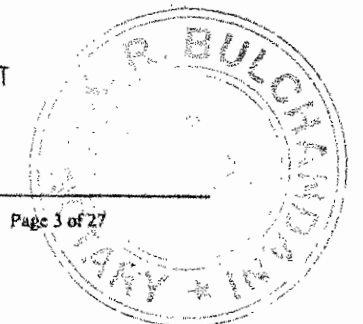
१. मुदतीत बांधकाम न करणे :- कंपनीस वापरात बदल परवानगी देताना शासन जापन दि. १५/११/२००१ मधील अट क्रमांक(अ) नुसार परवानगी दिल्यापासून २ वर्षांच्या आत बांधकाम पूर्ण करून प्रत्यक्ष वापर सुरु करण्यात यावा, अशी अट ठेवण्यात आलेली होती. प्रकरणी जिल्हाधिकारी कार्यालयाचे अभिलेखाची पडताळणी केली असता मे. महाराष्ट्र थिएटर यांना दि.०७/०७/२००६ रोजी महापालिकेकडून पूर्णत्वाचा दाखला प्राप्त झाल्याचे दिसून येते. त्यानुषंगाने बांधकाम मुदतवाढीपोटी जिल्हाधिकारी कार्यालयाकडून दि.०४/१०/२०१८ रोजीच्या पत्रान्वये कळविण्यात आलेली कार्यालयात भरणा केलेली नाही.

भाडेपट्टा न देणे :- कंपनीस जमीन प्रदान केल्यानंतर कंपनीने वेळोवेळी वापरात बदलाची विनंती केली अतिमत्तः शासन जापन दि. ०७/११/२००१ च्या अनुषंगाने व जिल्हाधिकारी कार्यालयाच्या दि. १२/१२/२००१ रोजीच्या पत्राच्या अनुषंगाने भाडेपट्ट्याची आकारणी करण्यात आली व दि. ०५/१२/२००५ च्या करारनाम्यामध्ये देखील परिच्छेद क्रमांक ४ मध्ये भाडेपट्ट्या संदर्भात सदर बाब सविस्तरपणे नमूद करण्यात आलेली आहे. संबंधित कंपनीने सन २०१३ पर्यंत भाडेपट्ट्याची रक्कम भरणा केली असून तदनंतर कंपनीने सदर जागा विविध कार्यालयांना पोटभाडेपट्ट्याने दिलेली आहे. तथापि, करारनाम्यातील अट क्रमांक ४ नमूद केल्याप्रमाणे शासनाच्या दि.२३/११/२००१ व दि.२८/०८/२००४ रोजीच्या शासन निर्णयाप्रमाणे जिल्हाधिकारी कार्यालयाची परवानगी घेतलेली नाही व त्याप्रमाणे आजतागायत देय असणारी भाडेपट्टा रक्कम भरलेली नाही म्हणजेच दि. ०५/१२/२००५ रोजीच्या करारनाम्यातील अट क्रमांक ४ चा भंग झालेला आहे.

वित्तीय संस्थांना तारण देणे शासनाची अनर्जित रक्कम न देणे :- महाराष्ट्र थिएटर प्रा.लि.यांना प्रदान केल्यानंतर संबंधितांनी जमिनीच्या विकासासाठी वित्तीय संस्थेकडून कर्ज मिळणेबाबत परवानगी मागितली होती. सदर कंपनीस शासन जापन दि. ०४/०९/१९९७ व जिल्हाधिकारी यांचे दि. ०१/०१/१९९८ रोजीचे आदेशाने वित्तीय संस्थेकडून कर्ज उभारण्यास खालील अटी शर्तीवर परवानगी देण्यात आलेली होती :- शासन जापन दि. ०४/०९/१९९७ व जिल्हाधिकारी यांचे दि.०१/०१/१९९८ रोजीच्या आदेशातील क्रमांक (१) ते (५) मध्ये पुढील प्रमाणे नमूद केलेले आहे :-

१) कर्ज देणाऱ्या वित्तीय संस्थेने भूखंड किंवा भाडेपट्टा हक्क वा त्याचा कोणताही भाग विक्रावयास काढला तर पहिला भार म्हणून शासनास पुढील रकमा द्याव्या लागतील आणि महाणदार आपल्या मागण्या उर्वरित रकमेतून भागवतील.

अ) भाडेपट्ट्यापोटी थकित रक्कम असल्यास व करारनाम्यानुसार देय रकमा





ब) उक्त जमिनीच्या विक्री द्वारे मिळणाऱ्या अनर्जित उत्पन्नाच्या ५० टक्के रक्कम अनर्जित उत्पन्नाची रक्कम ठरविण्याच्या प्रयोजनासाठी जिल्हाधिकारी, मुंबई उपनगर जिल्हा किंवा शासनाने त्याकरिता नियुक्त केलेल्या अन्य कोणतेही अधिकारी अशी अनर्जित रक्कम ठरवील व आवश्यक वाटल्यास त्यावेळी शासनाने आदेश मिळवेल.

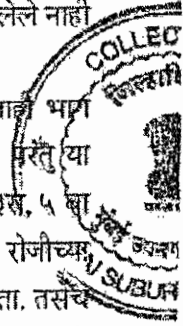
- २) संबंधित वित्तीय संस्थेला १० दिवसाची नोटीस दिल्याशिवाय महाराष्ट्र थियेटर प्रा.लि. यांचेबरोबर करारनामा संपुष्टात केला जाणार नाही वा जमीन पुनर्ग्रहित करता येणार नाही. हेतू हा की, शर्तभंगाबाबत उपाययोजना करण्याची शक्यता असल्यास, तशी उपाययोजना करण्याची संधी संबंधित वित्तीय संस्थेस उपलब्ध रहावी.
- ३) सदर प्रकरणी वित्तीय संस्थेकडून कर्ज उभारल्यानंतर त्या संस्थेकडील प्रमाणपत्र व त्या कर्जाच्या सुयोग्य वापराबाबतच्या प्रमाणपत्राच्या प्रती शासनाने सादर करण्यात येतील.
- ४) महाराष्ट्र थियेटर प्रा.लि. यांनी कोणताही शर्तभंग केलेला नाही याची खात्री जिल्हाधिकारी यांनी करावयाची आहे व कुठल्याही शर्तभंग जिल्हाधिकारी यांच्या निर्दर्शनास आल्यास जमीन पुनर्ग्रहित करण्यात येईल.
- ५) कंपनी ज्या वित्तीय संस्थेकडून कर्ज उभारणी करणार आहे त्या संस्थेचे नाव व करारनामा कंपनीने जिल्हाधिकारी यांना कळविणे बंधनकारक राहिल अन्यथा, हे आदेश गैरलागू होतील.

तथापि, शासन जापन दि. ०४/०९/१९९७ व जिल्हाधिकारी यांचे दि. ०१/०१/१९९८ चे पालन केलेले नाही म्हणजेच दि. ०५/१२/२००५ रोजीच्या करारनाम्यातील अट क्र. २ चा भंग झालेला आहे.

४. विनापरवानगी हस्तांतरण करणे :- भाडेपट्टेदार यांनी भाडेपट्ट्याने दिलेली जमीन अथवा कोणताही भाग हस्तांतरण, विक्री, तारण ठेवण्यापूर्वी शासनाची/जिल्हाधिकारी यांची परवानगी घेणे बंधनकारक होते. परंतु या कार्यालयाच्या असे निर्दर्शनास आलेले आहे की, प्रश्नांकीत मिळकतीवरील केलेल्या बांधकामामधील ३रा, ५ वा (काही भाग), ६ वा मजला अनुक्रमे दि. १४/०९/२०१२, दि. २८/०३/२०१३ व दि. २६/०३/२०१४ रोजीच्या महाणखताद्वारे जिल्हाधिकारी कार्यालयाच्या परवानगीशिवाय देना बँकेकडे महाण ठेवण्यात आलेला होता. तसेच सदर बांधकामामधील बेसमेंट, ४ था व ५ वा मजला (काही भाग) दि. ३१/०१/२०१३ रोजीच्या महाणखताद्वारे जिल्हाधिकारी कार्यालयाच्या परवानगीशिवाय अलाहाबाद बँकेकडे महाण ठेवण्यात आलेला आहे. त्याचप्रमाणे प्रकरणात विनापरवाना सदर मजले हे ई-ऑक्शन द्वारे विक्री केलेले आहेत. त्यामुळे शासनाने देय असलेली अनर्जित उत्पन्नाची रक्कम शासनाने मिळालेली नसल्यामुळे शासनाच्या महसूलाचे नुकसान झालेले आहे. तसेच प्रकरणात भाडेपट्ट्याने प्रदान करण्यात आलेल्या शासकीय जमिनीवर त्रयस्थ व्यक्ती/ संस्थेचे हितसंबंध प्रस्थापित झालेले आहेत. सबब, भाडेपट्टा करारनाम्यातील अट क्र. ७ चा भंग झाला.

उपरोक्त शर्तभंगाच्या अनुषंगाने मूळ कंपनी महाराष्ट्र थियेटर प्रा.लि. यांना या कार्यालयाने दि. २९/०८/२०१९ दि. ०६/०१/२०२१ व दि. २२/०२/२०२१ रोजी नोटीस दिलेल्या आहेत तसेच देना बँक (बँक ऑफ बडोदा) यांना दि. २९/०८/२०१९, दि. ०६/०१/२०२१, व दि. २२/०२/२०२१ रोजी नोटीस देण्यात आलेल्या आहेत. तसेच १) मिड डे इन्फोमिडीया लि., २) मे.व्ही.आर.एस.एम. इंटरप्रायझेस एलएलपी व ३) म्युजिक ब्रॉडकास्ट लि. यांना देखील दि. ०६/०१/२०२१ रोजी नोटीस दिलेल्या आहेत. प्रकरणी वेळोवेळी सुनावणी आयोजित करण्यात आली. परंतु कोव्हिड-१९ च्या प्रादुर्भावामुळे पुढे सुनावणी होऊ शकली नाही. तसेच प्रकरणात अलाहाबाद बँकेकडून कर्ज उभारणी केली असून बेसमेंटचा भाग लिलावाद्वारे विक्री झाल्याची बाब नव्याने या कार्यालयाच्या निर्दर्शनास आलेली आहे.

उपरोक्त बाब विचारात घेता, माँजे चांद्रे ता.अंधेरी स.नं.३४१ अ मधील ४५१५ चौ.मी क्षेत्र हे शासनाने महाराष्ट्र थियेटर प्रा.लि. यांना प्रदान केलेल्या आदेशातील, तसेच वेळोवेळी दिलेल्या परवानगी संदर्भातील



माहिती अधिकाऱा अधिनियम  
२००५ अंतर्गत माहिती

आदेशात नमूद अटी व शर्तीचा आणि या जमिनीशी संबंधित भाडेपट्ट्या करारनामा दि.०५/१२/२००५ मधील अटी व शर्तीचा भंग झाल्याचे दिसून येत असल्यामुळे सदर शासकीय जमीन त्यावरील इमारत बांधकामासह शासन जमा का करण्यात येऊ नये? याबाबत नव्याने सुधारीत नोटीस देण्यात येऊन संबंधितांना त्यांच्या संबंधित मुद्द्याबाबत म्हणणे मांडण्याकरीता या कार्यालयात सुनावणी आयोजित करण्यात आलेली होती. प्रकरणी दि.२३/०५/२०२२ रोजी सुनावणीअंती प्रकरण आदेशासाठी बंद करण्यात आले.

महाराष्ट्र थिएटर प्रा. लि. यांची बाजू :-

MOST RESPECTFULLY SHEWETH AS FOLLOWS:

In respect of property being a leasehold plot bearing CTS no. 629/1252 admeasuring 4515 sq meters ("said land") along with building thereon known as RNA Corporate Centre situated at Village Bandra (East), Mumbai- 400 051 (Hereinafter collectively the "said Property") which is leased to Maharashtra Theatres Pvt. Ltd vide Lease Agreement dated 5th December, 2005

1. That the Respondent No. 1 is represented through Adv Vidya Adsule and the Vakalatnama thereof is enclosed hereto and present Written Arguments/Reply have been signed, verified and filed by Advocate Vidya Adsule on behalf of Respondent No. 1 and the Respondent No. 1 reserves their right to file additional Written Submissions.
2. That the notice dated 01.04.2022 ("said notice") was issued by the Collector to the above-mentioned Respondents including the Respondent No. 1 wherein the Hon'ble Collector had issued the said Show Cause Notice seeking explanations on the following issues viz:

- a. Building not constructed within the timeline stipulated
- b. Nonpayment of lease rent and Unearned Income
- c. No payment of Un-earned income when the said property being mortgaged to banks/ financial institutions
- d. Transfer of the said property part thereof without seeking permission from the Hon'ble Collector, Mumbai Suburban District

The said Respondent states that they had already filed and submitted their detailed replies vide their letters both dated 23.03.2021 ("said replies") before the Hon'ble Collector, Mumbai Suburban District in response to the Notice bearing No. C/Desk-3D/L-235/625/2019 dated 29.08.2019 and 22.02.2021 wherein the said Respondent had brought out all the relevant facts and requested the Hon'ble Collector Mumbai Suburban District to not only order/declare the transfer of the auctioned property under question as Null and Void as Respondent no.2 and Respondent no.3 had not committed serious breach by not following the mandatory procedure under GR dated 27.02.2009 but also cause huge loss of revenue to the State Exchequer. The said Respondent No. 1 repeats, reiterates all that it has been mentioned in the said replies and states that the same may be treated as part and parcel and to be read along with the present Replies. The said Respondent No. 1 further also submits that that the said replies shall be treated as integral part of this Written Submissions/ Reply and that the same may be read and construed together.

The said Respondent No. 1 also states that it has received a copy of the reply dated 07.04.2022 from Respondent nos. 4 to ("said copy of the reply") on the date of the scheduled hearing and Respondent No. 1 denies all allegations made by them against Respondent in their replies as the same are baseless and with malafide intention and are denied in totality.

5. The said Respondent states that before dealing with the contents of the said notice, the said Respondent No. 1 wishes to bring out the important facts, averments, contentions and submissions as under:

- a. The said land being owned by Government of Maharashtra bearing S. No. 341A admeasuring 4515 sq.mtrs situated at village Bandra (E) was given on lease on 18.06.1969 and 11.09.1969 to Respondent No. 1 for a period of 99 (ninety nine years) for construction of Theatre. Thereafter, the possession was handed over to the said notice and accordingly lease period started from 02.01.1970.
- b. That change of user from Theatre to other permissible user was granted by State Government from time to time and lastly permissible user was approved for 1 FSI, 10% FSI for Theatre use and 90% for office use vide State Government GR dated 15.11.2001.
- c. Subsequently, the Government vide in GR dated 20.03.2002 have granted permission to avail the benefit of TDR on payment of provisional 3% premium at rate of Rs 327/ sq. mtrs subject to finalization of policy from State Government and if differential amount arise after fixation of policy same shall be paid by the lessee and this differential amount was arrived at and have been paid by us. Thereafter, a Lease Agreement was executed between M/s Maharashtra Theatre Pvt Ltd and

164

सुप्रीम कोर्ट ऑफ इंडिया  
कोर्ट ऑफ अपील

the then Collector (MSD) on 05.12.2005 ("said lease agreement") and the same was registered before the Sub-Registrar of Assurance. The said Respondent No. 1 wishes to reiterate some of the important provisions in the said Lease Agreement.

Clause 8: "that no work will be commenced on the demised land until the plan, elevations, details and specifications shall have been approved as aforesaid and thereafter they shall not make any alterations in or additions thereto unless such alterations and additions shall have been approved by the MCGM"

Clause 7: "that the lessee shall not directly or indirectly transfer, assign, encumber, mortgage land or part with its interest under or benefit of this lease of land in manner thereof, without the previous consent in writing of the Government. Government will be free to refuse such consent or grant it subject to such conditions including a condition regarding

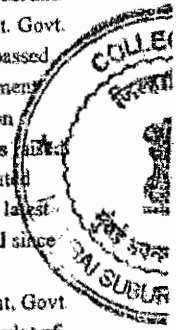
The said Respondent No. 1 relies upon its true interpretation and meaning as given hereinbelow.

6. Without prejudice to the rights and contentions, the said Respondent No. 1 shall now deal with the issues mentioned in the said Notice.
7. With reference to issue no.1 "FAILURE TO CONSTRUCT ON TIME", the said Respondent No. 1 submits that Vide order dated 12.12.2001, Hon'ble Collector had granted permission for change of user i.e. to use 10% for theatre and 90% for office purpose. Pursuant to said Order, said Respondent no. 1 had applied to the Executive Engineer, Building Proposal, W.S., Bandra (MCGM) for approval of the building plans. But the Executive Engineer (B.P.) W.S. declined our request and therefore, the said Respondent No. 1 were compelled to move in appeal before the Hon'ble Chief Minister, U.D. Dept. Govt. of Maharashtra. In the said Appeal bearing File No. CMS/TPB4303/459/CR220/03/UD-11 Hon'ble Chief Minister passed order on 11.03.2004 and subsequent thereafter the plans were sanctioned by MCGM on 19.05.2004 and Commencement Certificate was issued on 08.07.2004. The construction was completed as per the sanctioned plan & OC was issued on 07.07.2006. Incidentally the said Respondent No. 1 would like to submit that previously the then Collector, MSD has dealt this issue regarding completion of the construction work within 2 (two) years vide their letters No. 11/3D/LO-235 dated 16.03.2011 and upon clarification submitted by us as explained in para 1 above vide our several letters including the latest reply dated 06/11/2018, it appears that the same was accepted by the then Collector, MSD and the matter was closed since no demand for extension in time period for construction was raised.
8. The said Respondent No. 1 further submits that the order in appeal passed by Hon'ble Chief Minister, U.D. Department, Govt. of Maharashtra on 11.03.2004 and thereafter the plans were approved by MCGM permitting the development on the plot of land as granted by your office on 12.12.2001. Thus, the order dated 12.12.2001 has become effective and operative only with the order passed in Appeal dated 11.03.2004 after which the order dated 12.12.2001 was implemented and the building plans were approved by the MCGM on 19.06.2004 and Commencement Certificate issued on 08.07.2004 permitting development on the plot of land. As such, the order dated 12.12.2001 was effective and it was implemented from the date of approval of the building plans on 19.06.2004 and Commencement Certificate dated 08.07.2004 permitting development as contemplated in the order. Therefore, it will be imperative to calculate the period of two years for completion of construction only from 08.07.2004 till 07.07.2006 and the said Respondent No. 1 refers to clause 8 of the said Lease Agreement, which is reproduced hereinafter:

Clause 8: "that no work will be commenced on the demised land until the plan, elevations, details and specifications"

shall have been approved as aforesaid and thereafter they shall not make any alterations in or additions thereto unless such alterations and additions shall have been approved by the MCGM"

The said Respondent No. 1 submits that the said clause clearly states that no work shall be commenced unless and until all the plans, elevations etc. have been approved by MCGM. Hence it's very clear that the Respondent No. 1 have completed the construction of the building on the said land within 2 (two) years of the stipulated time and required OC was also received well in time to commence use of the said Building on the said land as per the sanctioned and approved plan. Therefore, the Hon'ble Collector Mumbai Suburban District should have calculated the period of construction for two years from 08.07.2004 to 07.07.2006. The said Respondent No. 1 states the said Respondent No. 1 has already given a detailed reply to the same vide its various reply letters dated 08.03.2004, dated March, 2011, 06.11.2018 and 23.03.2021. The said Respondent No. 1 refers to and relies upon the said letters dated 08.03.2004, dated March, 2011, 06.11.2018 at the time of hearing. The said Respondent No. 1 also places reliance upon a judgement passed by the Hon'ble Bombay High Court dated 20.11.2019 in WP



राजिती अधिकाारी अधिनियम  
२००२, केंद्रगत नाशिकी

not applicable in the present case, since only the units are mortgaged hence the question of seeking permission from Hon'ble Collector for offering any units in RNA Corporate Park Building from the Hon'ble Collector does not arise and ipso facto the payment of unearned income thereof.

- 14. The said Respondent No. 1 further states that the said Respondent No. 1 have not mortgaged the said land or part and all loan(s) /facilities the said Respondent No. 1 have availed from different lenders was ONLY by offering the units in the said RNA Corporate Park as the Security towards repayment of the respective loans/ facilities availed by them.
- 15. In addition, it is submitted that, as per the terms of lease agreement dated 05.12.2005 particularly as stipulated in clause 11 (vii) the said Respondent No. 1 are permitted to obtain finance by mortgaging the structure or any part of it and for that by the said Respondent No. 1 is not required to obtain any permission from the Collector, MSD or inform them about it. The said Respondent No. 1 further states that through the said Respondent No. 1 was inclined to take loan and keep the said land as collateral for the purposes of construction of the building, the same was not taken and therefore there was no necessity to inform the Government of the same. Therefore, the said Respondent No. 1 has not committed breach and/or violated any of the terms and conditions of the notification dated 04.09.1997 and also of the said Lease Agreement dated 5th December, 2005.

16. With reference to issue no.4 (clause 2 (d) herein) "TRANSFER WITHOUT PERMISSION" the said Respondent No. 1 in reply submits and reiterates what it has mentioned hereinabove that they have not transferred and/or assigned and/or mortgaged the said land and/or any part thereof to any lenders (financial insitutions/Bank) for which it has to take the permission of the Government and that they have mortgaged and offered security the various units in the said building on the said land to different lender (banks/ financial institutions) towards repayment of the loans/facilities availed by them and not the said land. The said Respondent No. 1 further states that in addition it is submitted that as provided under Schedule "A" of the GR No. Jamin 2000/CR 135/J-1 dated 27.02.2009 at item no. 1 it is made mandatory on part of the Lenders (Banks/Fls) to whom the structure was mortgaged, in this case the said Banks (here the DENA Bank and Allahabad Bank- Respondent No. 2 and 3 herein) to approach the Hon'ble District Collector submitting details like estimated value of the property the lenders needed to auction for the recoveries of sum of loan/ borrowings outstanding to be recovered etc by them respectively from the said Respondent No. 1. and they should have obtained prior permission from the Collector for the proposed auction which they seem to have deliberately failed and neglected with an intention to defraud the State Exchequer of their rightful revenue. In the present case, DENA Bank and Allahabad Bank (Respondents 2 and 3) respectively have failed to comply with both these mandatory obligations on their part and have auctioned the respective units at a meager value without payment of unearned income amounts and other outstanding respectively to the Government. The said Respondent further states that in any case if the DENA Bank and Allahabad Bank i.e. Respondent no.2 and 3 refuses to pay or does not pay the sum of unearned amount due to the State Government then as provided in clause 11(1) of the lease agreement

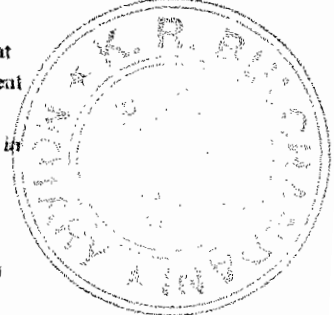


17. "the lessee hereby for themselves, their successors, respective heir, executors, administrators and permitted assigns covenants with the lessor the following.."

(i) *During the said term hereby granted to duly pay the lessor the said rent at the time and on the day..... To duly pay all the existing and future taxes, rates, charges, assessment and outgoing of every description for the time being payable by either by the lessee or by the occupier in respect of the demised premises and any things for the time being thereon"*



18. In this case, since the DENA Bank and Allahabad Bank i.e. Respondent no.2 and 3 have stepped into the shoes of the said Respondent no. 1, in the absence of the DENA Bank and Allahabad Bank i.e. Respondent no.2 and 3 not paying the rent, it is the owner/possessor of the auctioned purchaser has to pay all the due amount to the Government. It is also requested to be taken cognizance of the fact that DENA Bank and Allahabad Bank i.e. Respondent no.2 and 3 have breached of above referred existing provisions and violated laid down procedure to be followed before selling the respective units/property by auction in much lower price than the prevailing market price and said Respondent no. 1 further most vehemently submits that the DENA Bank and Allahabad Bank i.e. Respondents no.2 and 3 in connivance with the M/s Midday Infomediu (Respondent No. 4), M/s VRSM Enterprises LLP (Respondent No. 5) and M/s Music Broadcast Ltd (Respondent No. 6 have malafidely with ulterior motives and for personal unlawful gains respectively have completed transaction of sale of the respective units in order to defraud the State Exchequer and have committed fraud upon the State as well caused huge financial loss to Respondent No. 1 as the residual post adjustment of the outstanding loan amounts would be the entitlement of Respondent No. 1.



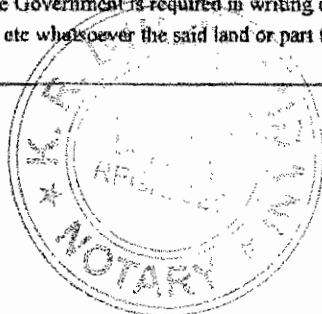
19. The Respondent no.1 hereby submits that part attachment of units the said Respondent no.2 and 3 respectively tried to auction sale the units (under reference/subject matter), however, Respondent no.1 challenged the valuation of the said units by Respondent no.2 Bank and Respondent no.1 conducted valuation of the said units from an independent valuer and Respondent no.1 also challenged the valuation in Debt Recovery Tribunal, Mumbai and the Debt Recovery Mumbai

167

माहिती अधिकारी अधिनियम  
२००५ अंतर्गत माहिती

No. 586 of 2018: Raghuleela Builders, M/s Reliance Industries Ltd vs MMRDA wherein the Hon'ble Court had restrained MMRDA from levying or to recover premium for delay in construction beyond prescribed period. Based on the contentions and the facts and terms and conditions of the said Lease Agreement the said Respondent no. 1 submits that in the above circumstances the cause of action has not at all arrived at to levy the penalty for non-completion of the Construction of the said Building in stipulated time of 2 years and hence the penalty demand proceedings to be dropped.

9. With reference to issue no.2 "NON-PAYMENT OF LEASE/UN-EARNED INCOME", the said Respondent No. 1 submits that as per clause 4 of said lease agreement dated 05.12.2005 the said Respondent No. 1 were required to pay a yearly lease rent and unearned income. The said Respondent No. 1 further states that as per their records they have paid the yearly lease rent and lumsom yearly unearned income for letting out units on timely basis to Hon'ble Collector/ Treasury of the Government, and the Lease Rent have been paid till year 2016-2017 and unearned income have been paid till year 2014 15. However due to unforeseen circumstances and reasons beyond the control of the said Respondent No. 1 the payment of yearly lease rent and lumsom yearly unearned income for letting out units is pending thereafter and the Respondent No. 1 is ready and willing to settle and pay the arrears as per directions of this Hon'ble Collector.
10. The said Respondent No. 1 further states that the said Respondent No. 1 has given parts of the building premises on leave and license to various clients including the said Respondent no. 4 to 6 to whom the said Notice is also addressed by the Hon'ble Collector, Mumbai Suburban. The said Respondent No. 1 draws reference to the conditions mentioned in memorandum dated 04.09.1997, the following clauses have been mentioned:
1. If a lending financial institution sells the plot or lease rights or any part thereof, then, the lending institution will have to pay the following amounts to the Government and the mortgagor will recover their amounts outstanding amount out of the balance amount.
    - (a) The amount outstanding towards the lease, rent and any other amounts due as per the lease agreement
    - (b) For the purposes of determining 50% of the unearned income from the sale amount of the said land, the collector, Mumbai Suburban or any other office appointed by the Government for such purpose shall determine unearned income and if required shall obtain the order of the government.
  2. Ninety (90) days notice is given to the concerned financial institution, the agreement entered with MTPL will not be terminated or the land will not be reclaimed. If there is a possibility of redressal of the grievance, the opportunity to do is relevant and the same should be available to the financial institution.
  3. In this case, after raising the loan from the financial institution, the certificate from that institution and the suitability of that loan and a copy of the certificate should be submitted to the government.
  4. That MTPL has assured the District Collector that it has not violated any condition and that in the event if MTPL has violated any condition then the said land will be reclaimed again by the Collector.
  5. Name and agreement of the financial institution from which the company is going to raise the loan, it will be mandatory to inform the Collector, otherwise, the orders will become invalid.
11. From the bare perusal of the above provisions it is very clear interpretation that the unearned income payable is not on sale, transfer, assignment, lease, mortgage of the units comprising the said building known as "RNA Corporate Park" but is ONLY payable if the said land or any part thereof is sold, transferred, assigned, leased, mortgaged, etc by the said Respondent to whomsoever.
12. With reference to issue no.3 "OFFERING THE SAID LAND AS SECURITY TOWARDS LOAN/FACILITIES AVAILED FROM LENDERS WITHOUT PERMISSION AND PAYMENT OF UNEARNED INCOME" the said Respondent No 1 submits that they have NOT sold and/or assigned and/or transferred, mortgaged etc whatsoever the said land to whomsoever including to any lenders. The said Respondent No 1 submits that they have mortgaged various units which are constructed on the said land to various lenders.
13. Further, the said Respondent No. 1 wishes to reiterate clause no. 11 (vii) of the lease agreement, "that the lessee shall not directly or indirectly transfer, assign, encumber, mortgage land or part with its interest under or benefit of this lease of land in manner thereof, without the previous consent in writing of the Government. Government will be free to refuse such consent or grant it subject to such conditions including a condition regarding the payment of premium as Government may in its absolute discretion think fit. However, this condition is subject to clause 2 hereinabove and shall not be applicable to the lessee in case if it transfers, assigns, encumbers, mortgages or parts with its interest in respect of the structure/ structure/s" which clearly stipulates that permission/consent of the Government is required in writing only if the said Respondent No. 1 have sold and/or assigned and/or transferred, mortgaged etc whatsoever the said land or part to whomsoever including to any lenders, which is





माहिती अभिलेखी अविनिवृत्त  
२००५ अक्टोबर २०

appointed an independent valuer who has also given the valuation report. However, the said Banks disregarding the DRT-Mumbai valuation have auctioned/sold the said units to Respondent nos. 4, 5 and 6 respectively. However, Respondent no. 1 have also challenged the auction sale in the Hon'ble Bombay High Court and the same is pending.

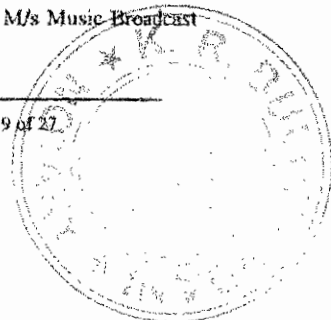
20. The balance of convenience is in favour of the said Respondent No. 1 and grave and irreparable loss and harm shall be caused to said Respondent No. 1 in the event the prayers as below are not granted. Therefore, the said Respondent No. 1 most humbly prays that:

- Since they have not violated and/or committed breach of the terms and conditions of the said Lease Agreement dated 5<sup>th</sup> December, 2005 and other GRs etc as set forth in the said notice the Hon'ble Collector may be pleased to withdraw and/or dispose of the show cause and the contentions/issues raised in the said notice and further not to impose any penalty in respect of "Construction to be completed in stipulated time" as the said Respondent No. 1 as explained hereinabove have completed the construction of the said building on the said land in stipulated time
- to order/declare the transfer of the said auctioned property under question as NUL and VOID as the Bank had not only committed serious breach but also caused huge loss of revenue to the State Exchequer by undervaluation and not seeking permission for sale/transfer of their respective units.

मे.मिडडे इन्फोमिडिया लि, मे. म्यूझिक ब्रॉडकास्ट लि, मे.व्ही.आर.एस.एम. इन्टरप्राइज एलएलपी यांची बाजू

We, M/s Midday Infomedia Ltd, M/s Music Broadcast Ltd and M/s VRSM Enterprises LLP would like to make following submissions;

- The RNA Corporate Park building, which is situated at Off. Western Express Highway, Kalamagar, Bandra (East), Mumbai 400 051 constructed on the land owned by collector and which consist of 8 storied structure.
- Three companies purchased premises in the said building in the month of March, 2019 i.e. M/s Midday infomedia Ltd purchased entire 6<sup>th</sup> floor premises from Dena Bank (now Bank of Baroda) and basement from Allahabad Bank, M/s Music Broadcast Ltd purchased 5<sup>th</sup> floor unit No B & C and basement and VRSM Enterprises LLP purchased 3<sup>rd</sup> floor unit no B & C from Dena Bank (Now it's Bank Of Baroda W.e.f. 01/04/2019) through E-Auction tender notice and we got the Sale Certificate / Agreement registered on 18th March 2019 for M/s Music Broadcast Ltd (5th floor) and VRSM bob. 7/4/2022 Enterprises LLP (3<sup>rd</sup> floor), and on 19<sup>th</sup> March, 2019 for M/s Midday Infomedia Ltd (6<sup>th</sup> floor) and on 31<sup>st</sup> March, 2019 registered basement area of M/s Midday Infomedia Ltd.
- Prior to purchase of said premises M/s Midday Infomedia Ltd, M/s Jagran Prakashan Ltd, and M/s Music Broadcast Ltd were occupying the said premises on Leave and License basis from Maharashtra Theater Pvt. Ltd. (herein after referred to as MTPL") M/s Midday Infomedia Ltd, M/s Jagran Prakashan Ltd and M/s Music Broadcast Ltd were occupying 4<sup>th</sup> floor, 3<sup>rd</sup> floor and 5<sup>th</sup> floor respectively and were making timely rental payment compensation to banks escrow account.
- In the year October 2018, Dena Bank initiated action under "SARFESAI ACT" and took paper /symbolic possession of the said premises when the entire office and business activities of the above mentioned three companies were in operation from the said three floors i.e Publishing and Broadcasting activities and therefore we were left with no option but to purchase the said premises on war footing basis.
- Accordingly, in March 2019 M/s Midday Infomedia Ltd, M/s Music Broadcast Ltd and VRSM Enterprises LLP purchased premises from Dena Bank (Now known as Bank Of Baroda) & Allahabad Bank a nationalized Bank through E-Auction process. It is pertinent to note that Dena Bank/Allahabad bank at the time of sale proceedings neither took required permission or NOC from concerned authorities nor informed us that the said land was owned by collector/government. They purposely withheld information of collector land payout while they would have gone through this procedure when MTPL mortgaged their premises to the bank. Also please note, Dena bank have updated in their E-auction notice outstanding details of MCGM property tax however there was no mention of outstanding payout to collector / government.
- After the sale proceedings our Bankers asked us to procure collector's NOC and accordingly we approach collector office by our letter dated 28<sup>th</sup> June, 2019.
- It is pertinent to note that when we approached collector office by our letter dated 28<sup>th</sup> June, 2019 collector office issued notice dated 19<sup>th</sup> August, 2019 which states that before mortgaging any premises of RNA Corporate Park building, MTPL was supposed to take prior permission of this office and even before the sale proceedings were completed by Dena Bank / Allahabad bank through E-Auction, the Bank was required to seek permission from the Collector/government. However on both the occasions MTPL and Dena Bank /Allahabad Bank violated the clause of Government Resolution and thereby deprived the Government / collector from getting the unearned income for which the state government has lost it's revenue. The collector therefore issued notices to the concerned parties along with M/s Midday Infomedia Ltd, M/s Music Broadcast



सविज्ञापित अधिसूचना  
२०२५ अंतर्गत सविज्ञापित

Ltd. and VRSM Enterprises LLP and directed the concerned parties to remain present along with their respective representatives.

8) In view of the above M/s midday Infomedia Ltd, M/s Music Broadcast Ltd and VRSM Enterprises LLP who purchased entire 6<sup>th</sup> floor premises, 5<sup>th</sup> floor Unit No B and C, and 3<sup>rd</sup> floor Unit No B & C and also Basement area admeasuring 1000 square feet from Allahabad Bank, through E-Auction would like to make following Submission:

WITHOUT PREJUDICE to the rights and contentions of M/s Midday Infomedia Ltd, M/s Music Broadcast Ltd. and VRSM Enterprises LLP, to recover the amount from Bank of Baroda / Allahabad Bank. We are ready to deposit the collector's/government's legal fees from March 2019 onwards i.e. from the date of Sale proceedings / date of purchase Subject to regularizing the premises i.e. issuing us No Objection Certificate (NOC) situated at RNA Corporate Park Building i.e. Entire 6 floor premises 5th floor Unit No B and C, 3rd floor Unit No B and C and Basement area.

Lastly M/s Midday Infomedia Ltd, M/s Music Broadcast Ltd and VRSM Enterprises LLP submit that they have filed their respective written statements on 20<sup>th</sup> January, 2021 to the notice issued by collector we reiterate and confirm whatever stated in those written statements.

ना बैंक (आता बँक ऑफ बडोदा) यांची वाजू:-

AFFIDAVIT IN REPLY ON BEHALF OF THE NOTICEE

- We are in receipt of your notice dated 22<sup>nd</sup> February 2021 (the "said Notice"). At the outset, we say that the said Notice is without jurisdiction, illegal and bad in law. We reserve our rights and contentions in this regard. We also reserve our right to file a detailed reply on merits Nothing contained in the said Notice should be deemed to be admitted for want of travers.
- At the outset, we submit that the present reply is in addition to our reply dated 17 March 2020 to the Show Cause Notice dated 7<sup>th</sup> December 2019.
- We once again repeat and reiterate that the steps taken by the Bank in respect of the 3 5th and 6 Floor of the property situated at S. No. 341A of village Bandra, Tal-Andheri admeasuring 4515 sq mtrs. (the said "Subject Property") are in accordance with the applicable law.
- By a Lease Agreement dated 3 December 2005, the Government of Maharashtra leased the subject Property to M/s Maharashtra Theatre Pvt. Ltd (MTPL) Thereafter, MTT availed certain credit facilities from the Notice and mortgaged the subject property to the Notice to secure the (repayment thereof, but due to irregular and non-repayment of the credit facilities by the Borrower, a part of the subject Property was sold in favour of the auction purchaser.
- The Notice submits that the mortgage was created in favor of the bank, which is a registered mortgage. The subject property was registered in the year 2012, 2013 and 2014 and thus acts as constructive notice to public including the authority issuing the notice government During this intermittent period until December 2019, the government remained silent, without raising any objections, waking up and raising issues are with ulterior motives.
- Thereafter, government issued a show cause notice dated December 07, 2019 for recovery of unearned income from sale of the demised land Thereafter, the Noticee sought certain documents from the concerned department and filed its reply dated 17<sup>th</sup> March 2020 It is important to point out that, upon receiving the abovementioned reply, government has issued the present SCN dated 22<sup>nd</sup> February 2121 now claiming 'transfer fee for a sum of Rs. 5,04,11,501/- from the Noticee. We submit that the present SCN has been issued with an ulterior motive and is nothing but Jan afterthought to harass the Noticee.
- The Noticee further submits that, the bank took physical possession of the subject property on October 6<sup>th</sup>, 2018 and the same was published in two leading newspapers. Multiple times auction was attempted by this bank through public auction and auction notice was published in newspaper There was no objection from the side of the Government against the possession notice or auction notice.
- We also submit that this present SCN dated 22<sup>nd</sup> February 2021 has been issued at a belated stage and the issuing authority has failed to set out any cogent reasons for issuing the notice after efflux of time.
- The Notice states that as per the Lease Agreement dated 5<sup>th</sup> December 2005, there was no obligation on the Notice to inform your office about the creation of mortgage. The obligation, if any, was that of MTPL to Inform the name of the financial institution to which the subject Property was mortgaged to your office which position is reiterated in your notice dated 29<sup>th</sup> August 2019 issued to MTPL and also in the said Notice.
- 0. We submit that, S.37A of the Maharashtra Land Revenue Code, 1966 reads as follows  
**37A. Restrictions on sale, transfer, redevelopment, change of use, etc., in relation to Government land and nazul land**  
1) Every sale, transfer, redevelopment, use of additional Floor Spar Index (FSI), transfer of Transferable Development Rights (TDR) or change of use of any Government land in Amravati and Nagpur Revenue Divisions including the


यादिका अतिवारी अधिनियम  
२००५ अंतर्गत न्याय

Mumbai City and Revenue Divisions in the State, which is granted for various purposes under the provisions of this Code or rules made thereunder or any law relating to land revenue, before the commencement of this Code including the nazul lands in Amravati and Nagpur Revenue Divisions shall be subject to taking the prior permission of the State Government.

The State Government all while granting such permission as required under sub-section (1) recover such premium or charge and share of unearned income subject to such terms and conditions as may be specified, by general or special order, issued by the Government, from time to time :

*Provided that, if the provisions of this section or of any such orders issued thereunder are inconsistent with the terms and conditions of the order of land grant or the lease deed executed prior to the commencement of Maharashtra Land Revenue Code (Second Amendment) Act, 2012, the terms and conditions of such order of land grant or lease deed shall prevail.*

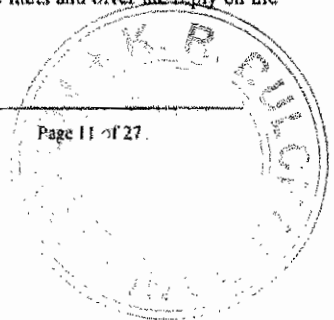
*Provided further that, in case of the nazul tails in Amravati and Nagpur Revenue Divisions, the provisions of sub-section (1) shall not be applicable with retrospective effect (Emphasis Added)*

- 
11. A bare perusal of the abovementioned section clearly indicates that for every sale, transfer, redevelopment, use of additional Floor Space Index (FSI), transfer of Transferable Development Rights (TDR) or change of use of any Government land, a prior permission of the state government shall be obtained. However, it is important to highlight that the proviso to sub-section (2) itself clarifies that, if there is an inconsistency in the provisions of Section 37A or of any such orders issued there under with the terms and conditions of the order of land grant or the lease deed executed prior to the commencement of Maharashtra Land Revenue Code (Second Amendment) Act, 2012, which has come into effect on 03.03.2015, the terms and conditions of the lease deed shall prevail.
  - The abovementioned Lease Agreement dated 05<sup>th</sup> December 2005 clearly stipulates that the lessor i.e. MTPL should have obtained necessary permission from the government of Maharashtra. Applying the aforementioned principle that since terms of the lease agreement would prevail over S37A, we submit that it was the lessor i.e. MTPL who should have obtained the requisite approvals.
  13. Without prejudice to the above, we submit that upon taking possession of the subject property, a secured creditor i.e. the noticee merely gets a right to sell the subject property on behalf of the debtor i.e. MTPL and any sale made by the secured creditor should be deemed to be a sale made by the debtor i.e. MTPL in the present matter.
  14. In light of the above, we submit that the transfer fee, if any cannot be recovered from the Noticee bank. We submit that, it shall primarily be recovered from MTPL since, the subject property has been transferred from MTPL to the auction purchasers. The bank merely acts as a custodian and the subject property has never transferred to the Bank and therefore the bank cannot be held liable for payment of the transfer fees.
  15. Alternatively, we submit that this transfer fees may be recovered from transferee i.e. auction purchasers. However, at the sake of repetition, we submit that a bank cannot be held liable for any transfer of the subject property.
  16. The Noticee reserves its right to file additional affidavits/replies as may be required in the course of the proceedings.
  17. Under the circumstances and for the reasons set out hereinabove, it is prayed that the said Notice be dropped as against the Noticee.

इडियन बँकेची बाजू:-

Reply to Notice dated 01.04.2022 filed on behalf of Allahabad Bank now merged with Indian Bank

1. I, Shri. Sudhanshu Munshi, Asst. General Manager, having address at Office No. 73, 7<sup>th</sup> Floor, Mittal Chambers, Nariman Point 21. I am well conversant facts of the facts of the matter and able to depose the same on the basis of the records maintained by Noticee no.3,
2. I say that the Government of India issued the notification No. GSR 156 (E) dated 04/03/2020 as Amalgamation Scheme. As per the said notification and Amalgamation Scheme, Allahabad Bank was amalgamated into Indian Bank with effect from 01.04.2020,
3. I further say that the Noticee no.3 received the Notice dated 01.04.2022 issued by the Hon'ble District Collector's Officer, Bandra, wherein the said noticee is called upon to give their reply/submission to the said Notice. The present reply is filed through the POA holder Shri. Sudhanshu Munshi, who is conversant and well aware about the facts and offer the reply on the basis of the record maintained by Noticee no.3.





माहिती अधिकारी अधिनियम  
२००५ अंतर्गत माहिती

- 171  
92
4. I further say that on or about Noticee no.1 approached the Noticee no.3 requesting to grant Term Loan Rs.55.00 Crores. The notice no.3 considered request of noticee no. 1 and sanctioned Term Loan Rs.55.00 Crores on the terms conditions mentioned sanction letter dated 22.01.2013.
  5. I further say that in order to secure the said Term Loan noticee no.1 executed various documents including following security documents favour of Noticee no.3 which are under:
    - a) Term Loan Agreement dated 30.01.2013 executed between RNA Corp Pvt Ltd Maharashtra Theatres Private Ltd Allahabad Bank for a sum Rs.55.00 Crores
    - b) Amendatory Restated Agreement to Term: dated 30.01.2013.
    - c) Indenture Mortgage dated 31.01.2013 entered into between RNA Corp Pvt Ltd, Maharashtra Theatres Pvt Ltd and Allahabad Bank duly registered with Sub Registrar, Andheri vide Document no.1282/2013.
    - d) Indenture Mortgage dated 09.03.2013 entered between RNA Corp Pvt Maharashtra Theatres Pvt Ltd and Allahabad Bank registered with Sub Registrar, Andheri vide Document no.2579/2013.
  6. I further say that in order to further secure the Term Loan facility Rs.55.00 Crores. Collateral Security (Indenture Mortgage) dated 09.03.2013 was executed between RNA Corp Pvt Ltd, Maharashtra Theatres Pvt Ltd and Allahabad Bank, whereby noticee no.1 created the mortgage commercial premises in Commercial Building at RNA Corporate Office, 2<sup>nd</sup> floor area 5967 sqfts. Carpet area to 8950 sq. super built up area in the building as RNA Corporate Park constructed on all pieces and parcel of admeasuring 4515 sqmtrs bearing Cadastral Survey no.341 A no.629/1252 of Govt Maharashtra, Andheri.
  7. As per the Lease Agreement dated 05.12.2005 which was executed between The Government of Maharashtra as a Lessor and Maharashtra Theatres Pvt Ltd, the lessee, whereby the Government of Maharashtra granted the lease period of 99 years for construction of Cinema Theatres as per para (c) in page no.2 of Lease Agreement. As per the lease Agreement the lessee is permitted to mortgage the lease hold rights or part thereof with Banks or Financial Institutions as mentioned in paragraph no.2 in Page no.6.
  8. I say that since the noticee no.1 defaulted in repayment of Term Loan sanctioned to them, therefore the noticee no.3 declared the account as Non Performing Assets on 31.03.2016 as per the RBI guidelines. Therefore the noticee no.3 initiated measures under SARFEASI Act 2002 and issued 13(2) Demand notice through the Authorized Officer. Since the noticee no.1 failed to repay the amount demanded within the stipulated period, the noticee no.3 proceeded and sold the said mortgaged property for a sum of Rs.1,28,00,000/- in favour of noticee no.4 by confirming the Sale. The noticee no.3 issued Sale Certificate dated 29.03.2019 in favour of M/s. Mid Day Informedia Ltd and also handed over the physical possession to the Auction purchaser.
  9. It is therefore submitted as per the security documents executed by noticee no.1 in favour of noticee no.3, as per the mortgaged created by the noticee no.1 in respect of the mortgaged properties and as per the Lease Agreement in paragraph no.2, the noticee no.3 proceeded against the mortgaged properties and sold under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 in order to recover the legitimate outstanding dues sanctioned to noticee no.1.
  10. With reference to your notice it is admitted fact that the State of Maharashtra had executed Lease Agreement dated 05.12.2005, The Government of Maharashtra as a Lessor and Maharashtra Theatres Pvt Ltd, the lessee, whereby the Government of Maharashtra granted the lease period of 99 years for construction of Cinema Theatres as per para (c) in page no.2 of Lease Agreement. As per the lease Agreement the lessee is permitted to mortgage the lease hold rights or part thereof with Banks or Financial Institutions as mentioned in paragraph no.2 in Page no.6. Therefore the lessee was abide by the terms and conditions mentioned in the lease Agreement and the same is binding upon both the parties i.e. Government of Maharashtra being the lessor and Maharashtra Theatres Pvt Ltd being the Lessee. If there is any violation of either of the party they should approach the appropriate authority, in case of default of payment of rent of the lessor through the Collector shall issue a notice. I say that we have not come across such notice before taking any action against the lease.
  11. I say and submit that the subject property is the entire structure situated at Village Bandra, Taluka Andheri Survey no.341 A. It is pertinent to mention herein that now the structure is converted into building and the noticee no.3 has mortgage rights over Viz:(a) Basement Area adm 1000 sq. fts, carpet Area (b) 4 Door admng 13132 sqfts. Carpet area and (c) 5th Floor admeasuring 2680 sq. fts, carpet area (d) 2nd Floor admeasuring area 5967 sq. ft. all in the building known as RNA Corporate Park' constructed on all that pieces and parcel of land bearing Survey no.341A & CTS No.629/1252 of the Govt of Maharashtra & Cadastral Survey no.341 A, lying being and situate at Village Bandra, Taluka Andheri. It is not disputed that our portion of subject property is mortgaged by the lessee through Registered Mortgage which is registered with Sub Registrar's Office, Andheri vide document no, 1475 dated 31.01.2013.
  12. With reference to your notice. It is stated that the noticee no.1 had violated the order and permission of your office. Such as construction is not completed within stipulated period, the lease rent not paid. We do not find any record at that your good office has taken any action against noticee no.1 during that period, and when the property is sold, your good office has issued

माहिती अधिनियम, 2002  
२००५ अंकाचा नोंदणी

the said notice when the noticee no.3 has completed the sale procedure by issuance of Sale certificate, handing over the physical possession of secured assets and registration of Sale certificate with the sub registrar office, therefore the notice issued by your good office is not sustainable and the same is liable to be set aside and quashed.

13. I further say and submit that regarding the violation of the terms and conditions mentioned in the Lease agreement is between the lessor and lessee and the noticee no.3 is not a party to the said agreement and therefore the same is not applicable against the noticee no.3.

14. I further say that the notice issued by your good self is not clear and specific against noticee no.3, the said notice issued to notice no.1 to 6 which is common and therefore the same is liable to be quashed and set aside.

15. I further say that since the measures taken by the noticee no.3 against secured assets is not challenged by any of the aggrieved party including your good self in the court of law, therefore the action taken by noticee no.3 against the secured assets has attained finality.

16. I further say that if any rent/penalty is required to be paid in respect of the subject property has to be payable by the noticee no.4 who has purchased the secured assets from the noticee no.3 is on As is where is what is basis". I have gone through the reply filed by noticee no.4, wherein it is stated that they are ready to deposit the collector/government office pending dues from March 2019 onwards, which is not sustainable in law. It is pertinent to note that the property purchased in the public auction is always subject to the encumbrance payable by the auction purchaser and subject to the terms and conditions mentioned in the sale notice.

17. I further say that as per the records available with noticee no.3, the present reply is filed and we reserve our right to file additional Affidavit and documents in order to decide the present subject matter.

I further say that noticee no. 1 has availed the Term Loan for a sum of Rs.55.00 Crores and in order secure the aforesaid loan which was sanctioned on 2.01.2013, the noticee no.1 has created mortgage infavour of noticee no.1

19. I further say that since the noticee no.1 defaulted in repayment of Term Loan sanctioned to them, the noticee no.3 declared M/s. account as Non Performing Assets on 31.03.2016 as per the RBI guidelines. Therefore the noticee no.3 initiated measures under SARFEASI Act 2002 and issued 13(2) Demand notice dated 16/05/2016 for a sum of Rs. 42,87,83,066.00 through the Authorized Officer. Since the noticee no.1 failed to repay the amount demanded within the 60 days period, the noticee no.3 proceeded further against the secured property.

20. I further say that since disbursement of loan property was the only security available with the noticee no.3 and therefore the notice no.3 through the Authorised Officer has filed an Application under section 14 of SARFEASI Act 2002 before Hon'ble CMM Court being Case No. 240/SA/2017.

21. I further say that the Hon'ble CMM after verifying all the security documents including the mortgaged documents has allowed application under section 14 of SARFEASI Act 2002 vide order dated 08/01/2018 in Case No. 240/SA/2017 directing the Court Commissioner to take the physical possession of the secured assets and handover the same to the Authorized Officer.

22. I further say that pursuant to notice u/s 13(2) the Authorized Officer of Bank took symbolic possession of the secured property was taken i on 18/08/2016 and the notice to that effect was published in two local news paper i.e. Navshakti & Free press Journal dated 20/08/2016. In spite of publication of possession notice in the 2 local daily newspapers as stated herein above, the noticee no.3 has not received any objections either by the borrower/mortgagor/ noticee no.1 nor from your goodself.

23. I further say that since we have not received any notice/objections from any aggrieved parties, therefore the noticee no.3 has issued E Auction sale notice and the secured property i.e. Basement area admeasuring 1000 sq.ft, carpet area was sold to the highest bidder i.e. noticee no.4 for a sum of Rs.1,28,00,000/-.

24. I further say that pursuant to the order dated 12/10/2018 of the Hon'ble High Court passed in WP (L) No. 2504/2018, the physical possession of the secured assets i.e. Basement, 4th and 3 Floor was taken on 22/10/2018. Hereto annexed and marked as EXHBIT-"E" is the Copy of the Order dated 12/10/2018.

25. The physical possession of the property at 2nd floor was taken on 24/07/2018 by the Authorized Officer of Bank and to this effect Panchnama prepared. Hereto annexed and marked as EXHBIT-"F" is the Copy of the Panchnama dated 24/07/2018.

26. The Sale was confirmed in favour of noticee no.4. After receipt of the sale proceeds, the noticee no.3 issued Sale Certificate dated 29.03.2019 infavour of M/s. Mid Day Informedia Lid i.e. noticee no.4 OF IND and also handed over the physical possession of the secured assets to noticee no.4.

27. It is pertinent to mention herein that, noticee no.3 has sold the property under SARFEASI Act 2002 after completing all the measures/provisions under the sections and rules made therein, therefore the auction conducted by the noticee no.3 is valid in the eye of law. It is relevant hereto mention herein that being the secured creditor, the noticee no.3 has rightly sold the property to recover the public money and the physical possession of the secured assets were taken by the noticee no.3 pursuant to the order dated 08/01/2018 passed in Case No. 240/SA/2017 of Hon'ble CMM. The provision of the SARFEASI



173

भाषितो न्यायस्य  
२००२, संवत् २०१३ भाषितो

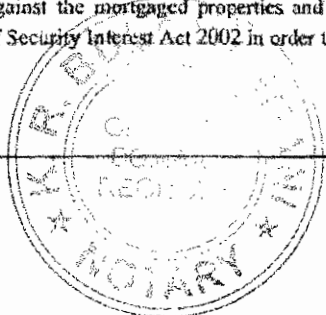
Act 2002 override all the other law for the time being in force and if any party are aggrieved by the action taken by the secured creditor should approach the appropriate authority.

28. In the above said circumstances, it is therefore humbly prayed that the notice dated 01.04.2022 be withdrawn against this noticee no.3.

अलाहाबाद बँक यांची बाजू:-

Written Submission filed on behalf of Allahabad Bank now merged with Indian Bank to the Notice dated 01.04.2022

- 1) The Noticee no.3 is Banking company having branch office at No. 73, 7<sup>th</sup> Floor, Mittal Chambers, Nariman Point, Mumbai 400 021.
- 2) The Noticee no.3 submits that they had received the Notice dated 01.04.2022 from the Hon'ble District Collector's Officer, Bandra, wherein the said noticee is called upon to give their reply/submission to the said Notice.
- 3) The Noticee no.3 has filed the Reply to the said Notice on 13.05.2022, this noticee crave leave to refer and rely upon the statements and exhibits filed alongwith the said reply.
- 4) The Noticee no.3 submits that noticee no.1 approached the Noticee no.3 requesting to grant Term Loan of Rs.55.00 Crores. The notices no.3 considered the request of noticee no.1 and has sanctioned Term Loan of Rs.55.00 Crores on the terms and conditions mentioned in sanction letter dated 22.01.2013.
- 5) The Noticee no.3 further submits that in order to secure the said Term Loan the noticee no.1 has executed various documents including the following security documents in favour of Noticee no.3, which are as under:
  - (a) Term Loan Agreement dated 30.01.2013 executed between RNA Corp Pvt Ltd and Maharashtra Theatres Private Ltd and Allahabad Bank for a sum of Rs.55.00 Crores
  - (b) Amendatory and Restated Agreement to Term Loan dated 30.01.2013.
  - (c) Indenture of Mortgage dated 31.01.2013 entered into between RNA Corp Pvt Ltd, Maharashtra Theatres Pvt Ltd and Allahabad Bank duly registered with Sub Registrar, Andheri I vide Document no.1282/2013.
  - (d) Indenture of Mortgage dated 09.03.2013 entered into between RNA Corp Pvt Ltd, Maharashtra Theatres Pvt Ltd and Allahabad Bank duly registered with Sub Registrar, Andheri I vide Document no.2579/2013.
- 6) The Noticee no.3 submits that in order to further secure the Term Loan facility of Rs.55.00 Crores, the Collateral Security (Indenture of Mortgage) dated 09.03.2013 was executed between RNA Corp Pvt Ltd, Maharashtra Theatres Pvt Ltd and Allahabad Bank, whereby the noticee no.1 created the mortgage of commercial premises in the Commercial Building at RNA Corporate Office, 2nd floor area 5967 sqfts. Carpet area to 8950 sq. ft. super built up area in the building as RNA Corporate Park constructed on all that pieces and parcel of land admeasuring 4515 sqmtrs bearing Cadastral Survey no.341 A & CTS no.629/1252 of Govt of Maharashtra, Andheri.
- 7) The Noticee no.3 submits that as per the Lease Agreement dated 05.12.2005 which was executed between The Government of Maharashtra as a Lessor and Maharashtra Theatres Pvt Ltd, the lessee, whereby the Government of Maharashtra granted the lease period of 99 years for construction of Cinema Theatres as per para (c) in page no.2 of Lease Agreement. As per the lease Agreement the lessee is permitted to mortgage the lease hold rights or part thereof with Banks or Financial Institutions as mentioned in paragraph no.2 in Page no.6.
- 8) The Noticee no.3 submits that since the noticee no.1 defaulted in repayment of Term Loan sanctioned to them, therefore the noticee no.3 declared the account as Non Performing Assets on 31.03.2016 as per the RBI guidelines. Therefore the noticee no.3 initiated measures under SARFEASI Act 2002 and issued 13(2) Demand notice through the Authorized Officer. Since the noticee no.1 failed to repay the amount demanded within the stipulated period, the noticee no.3 proceeded and sold the said mortgaged property for a sum of Rs. 1,28,00,000/- in favour of noticee no.4 by confirming the Sale. The noticee no.3 issued Sale Certificate dated 29.03.2019 in favour of M/s. Mid Day Informedia Ltd and also handed over the physical possession to the Auction purchaser.
- 9) The Noticee no.3 submits that as per the security documents executed by noticee no. 1 in favour of noticee no.3, as per the mortgage created by the noticee no.1 in respect of the mortgaged properties and as per the Lease Agreement in paragraph no.2, the noticee no.3 proceeded against the mortgaged properties and sold under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 in order to recover the legitimate outstanding dues of credit facilities sanctioned to noticee no.1.



भाहरी अधिकाारी कार्यालय  
१००५ अहमदाबाद महाराष्ट्र

११-

- 10) The Noticee no.3 states that it is admitted fact that the State of Maharashtra had executed Lease Agreement dated 05.12.2005, The Government of Maharashtra as a Lessor and Maharashtra Theatres Pvt Ltd, the lessee, whereby the Government of Maharashtra granted the lease period of 99 years for construction of Cinema Theatres as per para (c) in page no.2 of Lease Agreement. As per the lease Agreement the lessee is permitted to mortgage the lease hold rights or part thereof with Banks or Financial Institutions as mentioned in paragraph no.2 in Page no.6. Therefore the lessee was supposed to abide by the terms and conditions mentioned in the lease Agreement and the same is binding upon both the parties i.e. Government of Maharashtra being the lessor and Maharashtra Theatres Pvt Ltd being the Lessee. If there is any violation of either of the party they should approach the appropriate authority, in case of default of payment of rent of the lessor through the Collector shall issue a notice. The Noticee no.3 has not come across such notice before taking any action against the lease.
- 11) The Noticee no.3 submits that the subject property is the entire structure situated at Village Bandra, Taluka Andheri Survey no.341 A. It is pertinent to mention herein that now the structure is converted into building and the noticee no.3 has mortgage rights over Viz:(a) Basement Area adm 1000 sq. fts, carpet Area (b) 4th floor admsg 13132 sqfts. Carpet area and (c) Sa Floor admeasuring 2680 sq. fts, carpet area (d) 2nd Floor admeasuring area 5967 sq. ft. all in the building known as RNA Corporate Park" constructed on all that pieces and parcel of land bearing Survey no.341A & CTS No.629/1252 of the Govt of Maharashtra & Cadastral Survey no.341 A, lying being and situate at Village Bandra, Taluka Andheri. It is not disputed that our portion of subject property is mortgaged by the lessee through Registered Mortgage which is registered with Sub Registrar's Office, Andheri vide document no.1475 dated 31.01.2013.
- 12) The Noticee no.3 submits that the noticee no.1 had violated the order and permission of this Hon'ble District Collector's office. Such as construction is not completed within stipulated period, the lease rent not paid. This Noticee do not find any record at that this Hon'bleCollector's Office has taken any action against noticee no.1 during the said period, and when the property is sold this Hon'ble District Collector's office has issued the said notice when the noticee no.3 has completed the sale procedure by all aspects by issuance of Sale certificate, handing over the physical possession of secured assets and registration of Sale certificate with the sub Registrar office, therefore the notice issued by this Office is not sustainable and the same is liable to be set aside and quashed.  
The Noticee no.3 submits that regarding the violation of the terms and conditions mentioned in the Lease agreement is between the lessor and lease, the noticee no.3 is not a party to the said agreement and therefore the same is not applicable against the noticee no.3.
- 14) The Noticee no.3 submits that the notice issued by this Hon'ble District Collector's Office is not clear and specific against noticee no.3, the said notice issued to notice no.1 to 6 which is common and therefore the same is liable to be quashed and set aside.
- 15) The Noticee no.3 submits that that since the measures taken by the noticee no.3 against secured assets is not challenged by any of the aggrieved party including this Hon'ble District Collector's Office in the court of law, therefore the action taken by noticee no.3 against the secured assets has attained finality.
- 16) The Noticee no.3 submits that if any rent/penalty is required to be paid in respect of the subject property has to be payable by the noticee no.4 who has purchased the secured assets from the noticee no.3 is on As is where is what is basis". As per the reply filed by the noticee no.4, wherein it is stated that they are ready to deposit the collector/government office. It is pertinent to note that the property purchased in the public auction is always subject to the encumbrance payable by the auction purchaser and subject to the terms and conditions mentioned in the sale notice.
- 17) The noticee no.3 further submits that as per the records available with noticee no.3, the reply was filed and on the basis of the said reply the noticee no.3 is submitting the Written submission.
- 18) The noticee no.3 submits that noticee no.1 has availed the Term Loan for a sum of Rs.55.00 Crores and in order secure the aforesaid loan which was sanctioned on 2.01.2013, the noticee no.1 has created mortgage in favour of noticee no.3.
- 19) The noticee no.3 submits since the noticee no.1 defaulted in repayment of Term Loan sanctioned to them, the noticee no.3 declared the account as Non Performing Assets on 31.03.2016 as per the RBI guidelines. Therefore the noticee no.3 initiated measures under SARFEASI Act 2002 and issued 13(2) Demand notice dated 16/05/2016 for a sum of Rs.42,87,83,066.00 through the Authorized Officer. Since the noticee no.1 failed to repay the amount demanded within the 60 days period, the noticee no.3 proceeded further against the secured property.
- 20) The noticee no.3 further submits that since disbursement of loan property was the only security available with the noticee no.3 and therefore the notice no.3 through the Authorised Officer has filed an Application under section 14 of SARFEASI Act 2002 before Hon'ble CMM Court being Case No. 240/SA/2017.
- 21) The Noticee no.3 submits that the Hon'ble CMM after verifying all the security documents including the mortgaged documents has allowed the application under section 14 of SARFEASI Act 2002 vide order dated 08/01/2018 in Case No.



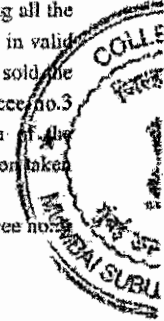
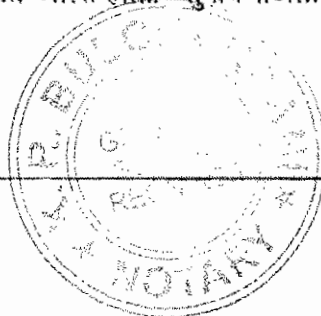
240/SA/2017 directing the Court Commissioner to take the physical possession of the secured assets and handover the same to the Authorized Officer.

- 22) The Noticee no.3 submits that pursuant to notice w/s 13(2) the Authorized Officer of Bank took symbolic possession of the secured property was taken on 18/08/2016 and the notice to that effect was published in two local news paper i.e. Navshakti & Free press Journal dated 20/08/2016. In spite of publication of possession notice in the 2 local daily newspapers as stated herein above, the noticee no.3 has not received any objections either by the borrower /mortgagor/ notices no. 1 nor from this Hon'ble Collector's Office.
- 23) The Noticee no.3 submits that since we have not received any notice/objections from any aggrieved parties, therefore the noticee no.3 has issued E Auction sale notice and the secured property i.e. Basement area admeasuring 1000 sq.ft. carpet area was sold to the highest bidder i.e. noticee no.4 for a sum of Rs.1,28,00,000/--
- 24) The Noticee no.3 submits that pursuant to the order dated 12/10/2018 of the Hon'ble High Court passed in WP (L) No. 2504/2018, the physical possession of the secured assets i.e. Basement, 4th and 5th Floor was taken on 22/10/2018.
- 25) The physical possession of the property at 2nd floor was taken on 24/07/2018 by the Authorized Officer of Bank and to this effect Panchnama prepared.
- 26) The Sale was confirmed in favour of noticee no.4. After receipt of the sale proceeds, the noticee no.3 issued Sale Certificate dated 29.03.2019 infavour of M/s. Mid Day Informedia Ltd i.e. noticee no.4 and also handed over the physical possession of the secured assets to noticee no.4.
- 27) It is pertinent to mention herein that, noticee no.3 has sold the property under SARFEASI Act 2002 after completing all the measures/provisions under the sections and rules made therein, therefore the auction conducted by the noticee no.3 in valid in the eye of law. It is relevant hereto mention herein that being the secured creditor, the noticee no.3 has rightly sold the property to recover the public money and the physical possession of the secured assets were taken by the noticee no.3 pursuant to the order dated 08/01/2018 passed in Case No. 240/SA/2017 of Hon'ble CMM. The provision of the SARFEASI Act 2002 override all the other law for the time being in force and if any party are aggrieved by the action taken by the secured creditor should approach the appropriate authority.
- 28) In the above said circumstances, it is therefore humbly prayed that there is no case or merits made against the noticee no.3 therefore notice dated 01.04.2022 be withdrawn against this noticee no.3.

निष्कर्ष :-

महाराष्ट्र थिएटर प्रा. लि., मे.मिडडे इन्फोमिडीया लि., मे.व्ही.आर.एस.एम. इन्टरप्राइज एलएलपी, मे. म्युझिक ब्रॉडकास्ट लि., देना बँक ( बँक ऑफ बडोदा) व अलाहाबाद बँक (इंडियन बँक) यांनी दाखल केलेले लेखी म्हणणे व केलेला तोंडी युक्तीवाद तसेच तहसिलदार, अंधेरी यांचा स्थळपाहणी अहवाल विचारात घेता प्रस्तुत प्रकरणांमध्ये माझे निष्कर्ष खालीलप्रमाणे आहेत.

१. जिल्हाधिकारी कार्यालयात दि. ०८/०२/२०२१ रोजी झालेल्या सुनावणीमध्ये बँक ऑफ बडोदा यांनी सादर केलेल्या लेखी म्हणण्यानुसार सुधारीत नोटीस निर्गमित करण्याचे निश्चित झाले होते. त्यानुसार दि. २२/०२/२०२१ रोजी जिल्हाधिकारी कार्यालयाने शासन निर्णय दि. २५/०५/२०१७ व दि. ०४/०५/२०१८ मधील तरतुदीनुसार सुधारीत नोटीस संबंधीतांना निर्गमित करण्यात आली होती. सादर नोटीसीन्वये देना बँक ( आता बँक ऑफ बडोदा) बँकेस हस्तांतरण आकार कळविण्यात आला होता. परंतु प्रकरणात लिलावाची कार्यवाही बँकेकडून पूर्ण झालेली असल्याने शासन निर्णय दि. २५/०५/२०१७ नुसार कार्यवाही करणे शक्य नसल्याने तसेच मिडडे इन्फोमिडीया यांनी दि.२३/०३/२०२१ रोजीच्या पत्रान्वये अलाहाबाद बँकेकडून बेसमेंटचे १००० चौ.फुट चे अलाहाबाद बँकेकडून दि.३०/०३/२०१९ अन्वये लिलावाद्वारे त्यांचेकडे हस्तांतरीत झाल्याची बाब नव्याने समोर आल्याने सर्व संबंधीतांना पुन्हा नव्याने दि. ०१/०४/२०२२ रोजी नोटीस देवून सुनावणी आयोजित करण्यात आली होती. सुनावणीअंती प्रकरण दि.२३/०५/२०२२ रोजी निर्णयासाठी बंद करण्यात आले.



महिला जिल्हाधिकारी अखिलेश्वर  
२००५ अंकीत नाशिकी

२. मौजे वांद्रे ता. अंधेरी स.नं. ३४१ अ मधील ४५१५ चौ.मी. जमीन शासन निर्णय दि.१८/०६/१९६९ अन्वये ९९ वर्षांच्या भाडेपट्ट्याने सिनेमा थिएटरसाठी महाराष्ट्र थिएटर प्रा. लि. यांना प्रदान करण्यात आली. शासन निर्णय दि.१८/०६/१९६९ अन्वये दिलेल्या आदेशास अधिन राहून या कार्यालयाने दि.११/०९/१९६९ रोजीच्या आदेशान्वये मौजे वांद्रे ता.अंधेरी स.नं.३४१ अ मधील ४५१५ चौ.मी. जमीन प्रति वार्षिक भुईभाडे रक्कम रु.७३,८२०.२५/- निश्चित करून ९९ वर्षांच्या भाडेपट्ट्याने सिनेमा थिएटरसाठी महाराष्ट्र थिएटर प्रा. लि. यांना काही अटी व शर्तीवर प्रदान करण्यात आली आहे. उपरोक्त जमीन प्रदानानुसार दि.०२/०१/१९७० अन्वये प्रश्नांकीत मिळकतीचा ताबा भाडेपट्टेदार यांना देण्यात आला. मे. महाराष्ट्र थिएटरचे बांधकाम १९७४ साली पूर्ण होऊन थिएटर सुरु झाले. परंतु चित्रपट पाहण्यास येणाऱ्या लोकांची संख्या अत्यल्प असल्याने थिएटर नुकसानीत येत असल्याने महाराष्ट्र थिएटर यांनी थिएटर इमारतीमधील उपलब्ध असलेल्या जागेमध्ये बँक व ४ शॉप उभारण्यास मंजूरी व बांधकामासाठी २ वर्षांची मुदत ४ वर्षासाठी वाढवून मिळणेबाबत केलेल्या विनंतीच्या अनुषंगाने शासनास अहवाल सादर करण्यात आलेला असता शासनाने दि.०९/०७/१९८१ रोजीच्या जापनावान्वये ०.४५ चटईक्षेत्र सिनेमागृहासाठी ०.१५ चटईक्षेत्र बँक व दुकानाचे गाळे यासाठी रु.३२७/- चौ.मी. दराने जमिनीच्या किमतीच्या ५% भाडेपट्टा तसेच ०.४० चटईक्षेत्र हॉटेलसाठी जमिनीच्या चालू बाजारभावाच्या ८% भाडेपट्टा आकारून परवानगी देण्यात आली. सहाय्यक संचालक, नगर रचना व मूल्य निर्धारण विभागाने सदर जमिनीची किंमत दर चौ.मी. ला रु. १५००/- उरविली असून शासनाने त्यांचेकडील दि.१६/०८/१९८३ रोजीच्या जापनावान्वये मंजूरी दिली आहे व महाराष्ट्र थिएटर प्रा. लि. यांचेकडून जिल्हाधिकारी यांनी भुईभाड्याची बसुली करण्याचे निर्देश दिले. त्यानुषंगाने जिल्हाधिकारी कार्यालयाने दि.२८/१०/१९८३ रोजीच्या पत्रान्वये महाराष्ट्र थिएटर प्रा. लि.यांना खालीलप्रमाणे प्रयोजनानुसार भुईभाड्याची आकारणी केली.

एफ.एस.आय. (जमीन) चौ.मी.	प्रयोजन	भुईभाडे
०.४५ (२०३१.७५ चौ.मी.)	सिनेमा	रु. ३७,०७१/- प्रती वार्षिक
०.१५ (६७७.२५ चौ.मी.)	शॉपस् व बँका	रु. १२,३५७/- प्रती वार्षिक + रेटद्वारे प्राप्त केलेल्या उत्पन्नाच्या ५०% अनर्जित उत्पन्नाची रक्कम
०.४० (१८०६.०० चौ.मी.)	हॉटेल	रु. २,२३,१९९/- प्रती वार्षिक

तद्नंतर महाराष्ट्र थिएटर प्रा. लि यांनी पुन्हा वापरात बदल करून मिळणेकामी केलेल्या विनंतीच्या अनुषंगाने शासन जापन दि.३०/०६/१९९४ अन्वये विकास नियंत्रण नियमावलीतील तरतुदीच्या अधीन राहून प्रश्नांकीत जमिनीसाठी अनुज्ञेय ठरणाऱ्या चटईक्षेत्रापैकी १० टक्के चटईक्षेत्र चित्रपटगृहाकरीता, १० टक्के चटईक्षेत्र दुकाने तथा बँका याकरीता आणि उर्वरित ८० टक्के चटई क्षेत्र हॉटेलकरीता वापरण्यास दि.०९/०७/१९८१ च्या आदेशातील अटी/शर्ती तसेच याबाबत जिल्हाधिकारी यांना योग्य वाटतील अशा अतिरिक्त अटीवर देण्यास शासनाने मंजूरी दिली. या अनुषंगाने तसेच शासनाकडील दि. ११/११/१९९४ रोजीच्या पत्राप्रमाणे जिल्हाधिकारी कार्यालयाने दि. ३०/११/१९९४ रोजीच्या दुरुस्ती आदेशान्वये अनुज्ञेय होणाऱ्या चटईक्षेत्रावर खालीलप्रमाणे भाडेपट्टा आकारणी केली आहे.



177

३८

साहित्य अकादमी अधिनियम  
१९७२ अंतर्गत साहित्य

क्षेत्र	प्रयोजन	दर	भुईभाडे
३६१२ चौ.मी. (८० टक्के चटईक्षेत्र)	हॉटेल	रु. १५००/- प्र. चौ.मी. दराने पूर्ण बाजारभावाच्या ८%	रु. ४,४४,३९७/-
९०३ चौ.मी. (२० टक्के चटईक्षेत्र)	चित्रपटगृह, दुकाने व बँका	रु. ३२७/- प्र. चौ.मी. दराने पूर्ण बाजारभावाच्या ५%	रु. १६,४७६/- अधिक भाड्यापोटी मिळणाऱ्या निव्वळ नफ्याच्या ५०% अनर्जित उत्पन्नाची रक्कम प्रती वार्षिक

३. त्यानंतर पुन्हा अनुज्ञेय प्रयोजनांमध्ये बदल करून मिळणेकामी महाराष्ट्र थिएटर प्रा. लि. यांनी केलेल्या विमतीच्या अनुषंगाने शासन जापन दि. ०७/११/२००१ अन्वये विकास नियंत्रण नियमावलीतील तरतुदीस अधीन राहून प्रश्नांकीत जमिनीसाठी अनुज्ञेय ठरणाऱ्या चटईक्षेत्रापैकी १०% चटईक्षेत्र चित्रपटगृहाकरीता ९०% चटईक्षेत्र कार्यालये याकरीता दि. ०९/०७/१९८१ व दि.३०/०६/१९९४ च्या आदेशातील अटी व शर्ती तसेच खालील अटी व शर्तीवर परवानगी देण्यात आली आहे.

अ) वरीलप्रमाणे परवानगी दिल्यापासून २ वर्षांच्या आत बांधकाम पूर्ण करून प्रत्यक्ष वापर सुरु करण्यात यावा.

ब) प्रश्नाधीन जमिनीचा वापर विकास नियंत्रण नियमावलीतील तरतुदीनुसार करण्यात यावा तसेच बांधकामाचे आराखडे मुंबई महानगरपालिकेकडून मंजूर करून घ्यावेत.

क) १५० आसनक्षमतेचे चित्रपटगृह १०% चटईक्षेत्रात बसले पाहिजे.

त्यानुषंगाने जिल्हाधिकारी कार्यालयाने पुन्हा नव्याने दि. १२/१२/२००१ रोजीच्या आदेशान्वये अंतिमतः खालीलप्रमाणे भुईभाडे निश्चित केले. यामध्ये महाराष्ट्र थिएटर प्रा. लि. यांनी कार्यालयासाठी वापरणेच्या ९०% चटईक्षेत्रासाठी (४०६३.५ चौ.मी.) भाडेपट्ट्याच्या रकमेव्यतिरिक्त ५०% अनर्जित रक्कम भरणेची आहे. त्यांनी सदर भूखंड विक्रीत करून कार्यालये बांधून त्याचे विक्री, हस्तांतरण, साठेकरण, मुखत्यारपत्र व कोणत्याही प्रकारचे त्रयस्थ व्यक्तींचे हितसंबंध निर्माण करणे तसेच भाडे/ठेवी (डिपॉझीट) या सर्व गोष्टींमधून मिळणाऱ्या अनर्जित रकमेपैकी ५०% अनर्जित रक्कम शासनास भरणेत येईल अशी देखील अट अंतर्भूत करण्यात आलेली आहे.

वापर प्रयोजन	क्षेत्र	जमिनीचा दर	भाडेपट्ट्याचा दर	वार्षिक भुईभाडे
चित्रपटगृह	१०% (४५१.५ चौ.मी.)	रु. ३२७/- प्र.चौ.मी.	५%	रु. ८,२३८/-
कार्यालये	९०% (४०६३.५ चौ.मी.)	रु. ३२७/- प्र.चौ.मी.	५%	रु. ७४,१४३/-
		एकूण		रु. ८२,३८१/-

४. बांधकाम मुदतवाढ:- महाराष्ट्र जमीन महसूल (सरकारी जमिनीची विल्हेवाट करणे) नियम १९७१ च्या नियम ४१ मध्ये प्रदान करण्यात आलेल्या शासकीय जमिनीवरील बांधकामाबाबत पुढीलप्रमाणे तरतुद आहे:-  
"जमीन मिळाल्याच्या तारखेपासून ३ वर्षांच्या आत (अथवा जिल्हाधिकारी परवानगी देईल अशी आणखी मुदत) प्रतिप्रहीता जमिनीवर भरीव व कायमस्वरूपी इमारत उभारेल. यात कसूर झाली तर, प्रतिप्रहीताकडून देण्यात आलेल्या भोगवटा किंमतीपेक्षा अधिक नसेल इतकी नुकसान भरपाई दिल्यानंतर ती जमीन परत

माहिती अधिकाारी अधिनियम  
२००८ च्या अधिनियम

-18-

घेतली जाण्यास पात्र असलेल" अशी आहे. म्हणजेच दि.०२/०१/१९७० रोजी जमिनीचा ताबा दिल्यानंतर तीन वर्षात म्हणजेच दि. ०१/०१/१९७३ पर्यंत बांधकाम पूर्ण करणे अपेक्षित होते. तथापि, भाडेपट्टेदार यांनी वेळोवेळी जमिनीच्या वापरात बदल करून मिळणेकामी शासनाकडे विनंतीच्या केलेल्या अंतिमतः शासन जापन दि. ०७/११/२००१ रोजी चटईक्षेत्रापैकी १०% चटईक्षेत्र चित्रपटगृहाकरीता १०% चटईक्षेत्र कार्यालय ये याकरीता वापरण्यास परवानगी देवून सदर जापनात अट क्र. (अ) नुसार परवानगी दिल्यापासून २ वर्षांच्या आत बांधकाम पूर्ण करून प्रत्यक्ष वापर सुरु करण्यात यावा अशी ठेवण्यात आलेली आहे. त्यानंतर जिल्हाधिकारी कार्यालयाने दि. १२/१२/२००१ रोजी वापराबाबतची परवानगी दिली आहे. जिल्हाधिकारी कार्यालयाकडील दि. १२/१२/२००१ रोजीच्या आदेशापासून २ वर्ष म्हणजेच दि. ११/१२/२००३ रोजी पर्यंत बांधकाम पूर्ण करणे आवश्यक होते किंवा बांधकाम मुदतवाढीची परवानगी जिल्हाधिकारी/शासनाकडून प्राप्त करून घेणे आवश्यक होते. तथापि, भाडेपट्टेदार महाराष्ट्र थिएटर प्रा. लि. यांना दि. ०७/०७/२००६ रोजी बृहन्मुंबई महानगरपालिकेकडून पूर्णत्वाचा दाखला (Full Occupancy Certificate) प्राप्त झाल्याचे दिसून येत असल्याने दि. ११/०१/२०१७ मधील परिच्छेद (VI) मधील तरतुदीनुसार दि. १२/१२/२००३ ते बांधकाम पूर्ण होईपर्यंत (दि. ०७/०७/२००६) पर्यंत बांधकाम मुदतवाढीचे शुल्क रक्कम रु. १,०७,८८,६००/- रक्कम भरणे करणेकामी मे. महाराष्ट्र थिएटर प्रा. लि. यांना कळविण्यात आलेले आहे. तथापि, अद्यापचावेतो सदर रक्कम त्यांनी शासनजमा केलेली नाही. सुनावणीदरम्यान भाडेपट्टेदार यांनी आता दि.०१/०३/२०१९ रोजी बांधकाम मुदतवाढीबाबत नव्याने धोरण निश्चित करून दि. ११/०१/२०१७ रोजीचे धोरण अधिक्रमित केलेले आहे. त्यामुळे नव्याने सदर रक्कम गणना करणे आवश्यक ठरते. प्रकरणात शासन निर्णय दि. ०१/०३/२०१९ पूर्वीच बांधकाम पूर्ण झालेले असल्याने सदर धोरणातील तरतुदीनुसार बांधकाम मुदतवाढीचे अधिमूल्याची रक्कम न आकारता शासन निर्णय दि. २१/११/१९५७ मधील ४(D) तरतुदीनुसार बांधकाम मुदतवाढीचे अधिमूल्य वसूल करणे आवश्यक ठरते. सबब, शासन निर्णय दि. २१/११/१९५७ मधील ४(d) नुसार दि. १२/१२/२००३ ते बांधकाम पूर्ण होईपर्यंत (दि. ०७/०७/२००६) बांधकाम अधिमूल्याची रक्कम रु. २,१५,७७,१८५/- इतकी होत आहे. सदर रक्कम भाडेपट्टेदार महाराष्ट्र थिएटर प्रा. लि. यांचेकडून वसूल करणे आवश्यक आहे. (सोबत गणना तक्ता)

५. भुईभाडे व पोटभाड्याची रक्कम :- तहसिलदार, अंधेरी यांचेकडील दि. २२/०६/२०२२ रोजीच्या अहवालाचे अवलोकन करता सन २०२१-२२ पर्यंत वार्षिक भुईभाडे रक्कम रु. ८२,३८१/- प्रमाणे भाडेपट्टेदार महाराष्ट्र थिएटर प्रा. लि. यांनी भरणे केलेली आहे. त्यामुळे भुईभाड्याची थकीत रक्कम दिसून येत नाही. तथापि, महाराष्ट्र थिएटर प्रा. लि. यांनी पोटभाड्याकरीता एक रक्कम (lumsun) वार्षिक अनर्जित उत्पन्नाची रक्कम २०१४-१५ पर्यंत भरणे केलेली असून जिल्हाधिकारी यांनी निश्चित करून दिली थकीत अनर्जित उत्पन्नाची रक्कम भरण्याची तयारी दर्शविली आहे. करारनाम्यातील अट क्र. ४ नुसार शासन निर्णय दि. २३/११/२००१ व दि. २४/०८/२००४ प्रमाणे इमारतीमधील मजले पोटभाड्याने दिल्याने ७५०/- प्र.चौ. फूट दराने १२.५% प्रती वर्ष अनुज्ञप्ती फी आकारण्याची तरतूद आहे. त्याअनुषंगाने दि.१५/०२/२००८ रोजी महाराष्ट्र थिएटर प्रा. लि. यांनी गणना करून जिल्हाधिकारी कार्यालयास सादर केलेली आहे. तसेच तलाठी कार्यालयात त्याप्रमाणे रक्कम भरणे केलेली आहे. भाडेपट्टेदार महाराष्ट्र थिएटर प्रा. लि. सदर पत्रान्वये सादर केलेल्या माहितीप्रमाणे :-





179

20

वाणिजी अधिकारों अधिनियम  
२००५ संशोधित संस्करण

FSI वापर	TDR वापर	इमारतीचे बांधकाम	सिनेमागृह वापर FSI	तळमजला भाग वापर FSI	पहिला व दुसरा मजला वापर FSI	३ रा मजला भाग वापर FSI	एकूण FSI
१	२	३	४	५	६	७	८
तळमजला + ३ रा मजला भाग	३ रा मजला भाग + ८ वा मजला	तळमजला + ८ मजले (र.क्र.१+२)	तळमजला भाग	तळमजला भाग	प्रती मजला १०१५.७३ प्रमाणे	३ रा मजला भाग	र.क्र. ५+६+७ र.क्र. ४ वजा जाता
३८३७.७५ चौ.मी.	४५१२.८५ चौ.मी.	८३५०.६० चौ.मी.	४८६.८० चौ.मी.	७२४.१८ चौ.मी.	२०३१.४६ चौ.मी.	५९५.३१ चौ.मी.	३३५०.९५ चौ.मी.

उक्त नमूद रकान्यातील क्षेत्र ३३५०.९५ चौ.मी नुसार पोटभाड्याकरीता अनुज्ञप्ती फी आकारण्याबाबत करारनाम्यामध्ये नमूद करण्यात आलेले आहे. शासन निर्णय दि. २५/०५/२००७ मधील जोडपत्र क मुद्दा (४) अन्वये सदर जागा भाड्याने/पोटभाड्याने देताना औद्योगिक वापराच्या जागेसाठी परिच्छेद १(अ) मध्ये दर्शविल्यानुसार होणाऱ्या हस्तांतरण फीच्या १०% प्रमाणे आणि वाणिज्यिक वापरासाठी भाड्याने देण्यात येणाऱ्या हस्तांतरण फीच्या १२.५% दराने प्रतिवर्षी अनुज्ञप्ती फी आकारण्यात यावी. तसेच या संदर्भात वेगवेगळ्या सुधारित करण्यात येणारे आदेश लागू करण्यात यावेत. त्यानंतर हस्तांतरण शुल्क/फी नगण्य वस्तुतः असल्याने त्यामध्ये शासनाने सुधारणा करून दि. ०७/०७/२०१७ रोजीच्या शासन निर्णयान्वये वाणिज्यिक/औद्योगिक गाळा यांच्या हस्तांतरणाकरीता आकारावयाचे हस्तांतरण शुल्क रु. १०००/- चौ.फूट किंवा प्रचलित वार्षिक दर विकरणपत्रानुसार येणाऱ्या मुल्यांकनाच्या ६% यापैकी जी रक्कम अधिक असेल ती रक्कम याप्रमाणे निश्चित करावयाचे आहे. त्यामुळे दि. ०७/०७/२०१७ नंतर सुधारित हस्तांतरण शुल्काच्या दरावर १२.५% इतकी पोटभाड्याची रक्कम निश्चित करणे आवश्यक ठरते. भाडेपट्टेदार यांनी पोटभाड्याकरीता अनुज्ञप्ती शुल्क रु. ४७,००,६९४/- प्रमाणे तलाठी कार्यालयात भरणा केलेले वजा जाता दि.०१/०१/२००७ ते दि.०६/०७/२०२२ पर्यंत अनुज्ञप्ती फी रक्कम रु. ७,१०,७८,२७९/- इतकी येत आहे. सदर रक्कम भाडेपट्टेदार महाराष्ट्र थिएटर प्रा. लि. यांचेकडून वसूल करणे आवश्यक ठरते. तसेच यापुढे त्यांचेकडून पोटभाड्याची वार्षिक अनुज्ञप्ती शुल्क रक्कम रु. ५८,७५,३१५/- इतके वसूल करणे क्रमप्राप्त ठरते. (सोबत गणना तक्ता)

६. अनर्जित उत्पन्न:- शासन ज्ञापन दि. ०४/०९/१९९७ अन्वये विकास नियंत्रण नियमावलीनुसार उपलब्ध झालेले अतिरिक्त चटईक्षेत्र विचारात घेऊन कंपनी भाडेपट्टेदार जमिनीचा विकास करणार असून त्या प्रकल्पासाठी ८५ कोटी रुपये खर्च अपेक्षित असल्याने तसेच हा निधी कंपनी वेगवेगळ्या वित्तिय संस्थांकडून उभारणार असल्याने त्यांना त्यांची इमारत व तत्सम मालमतेबरोबरच शासनाने दिलेल्या जमिनीचे भाडेपट्ट्याचे हक्क (LEASE HOLD RIGHTS) तारण ठेवावे लागणार आहेत. त्यानुसार जमीन मंजूरीच्या दिनांक ११/०९/१९६९ च्या परिशिष्टातील अट क्र. १० प्रमाणे मौजे बांद्रे स.नं. ३४१ अ येथील महाराष्ट्र थिएटर प्रा. लि. यांना प्रदान केलेल्या जमिनीच्या भाडेपट्ट्याचे हक्क तारण ठेवण्यास व प्रश्नाधीन जमीन

महिला अधिकारी अधिकारिका  
जिल्हा शासनाचे कार्यालय

आजच्या बाजारभावाने होणाऱ्या किंमतीइतके कमाल मर्यादेपर्यंत कर्ज उभारण्यास कंपनीस पुढील अटी/शर्तीवर परवानगी देण्यात आली आहे.

i. कर्ज देण्याऱ्या वित्तीय संस्थेने भूखंड किंवा भाडेपट्टा हक्क वा त्यांचा कोणताही भाग विक्रावयास काढला तर पहिला भार म्हणून शासनास पुढील रकमा द्याव्या लागतील आणि गहाणदार आपल्या मागण्या उर्वरित रकमेतून भागवतील.

अ) भाडेपट्टापटोटी थकौत रक्कम असल्यास सदर रक्कम व करारनाम्यानुसार देय रकमा

ब) उक्त जमिनीच्या विक्रीद्वारे मिळणाऱ्या अनर्जित उत्पन्नाच्या ५०% रक्कम अनर्जित उत्पन्नाची रक्कम ठरविण्याच्या प्रयोजनासाठी जिल्हाधिकारी, मुंबई उपनगर जिल्हा किंवा शासनाचे त्याकरीता नियुक्त केलेल्या अन्य कोणतेही अधिकारी अशी अनर्जित रक्कम ठरविल व आवश्यक वाटल्यास त्यावेळी शासनाचे आदेश मिळविल.

ii. संबंधित वित्तीय संस्थेस ९० दिवसाची नोटीस दिल्याशिवाय महाराष्ट्र थिएटर्स प्रा. लि. यांचेबरोबर करारनामा संपुष्टात केला जाणार नाही वा जमीन पुनर्प्रीहित करता येणार नाही. हेतू हा की, शर्तभंगाबाबत उपाययोजना करण्याची शक्यता असल्यास तशी उपाययोजना करण्याची संधी संबंधित वित्तीय संस्थेस उपलब्ध रहावी.

iii. सदर प्रकरणी वित्तीय संस्थेकडून कर्ज उभारल्यानंतर त्या संस्थेकडील प्रमाणपत्र व त्या कर्जाच्या सुयोग्य वापराबाबतच्या प्रमाणपत्राच्या प्रती शासनास सादर करण्यात येतील.

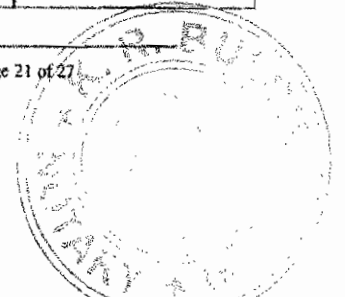
iv. महाराष्ट्र थिएटर्स प्रा. लि. यांनी कोणताही शर्तभंग केलेला नाही याची खात्री जिल्हाधिकार्यांनी करावी.

v. कंपनी ज्या वित्तीय संस्थेकडून कर्ज उभारणी करणार आहे त्या संस्थेचे नाव कंपनीने जिल्हाधिकार्यांना कळविणे बंधनकारक राहिल अन्यथा हे आदेश गैरलागू होतील.

त्याअनुषंगाने जिल्हाधिकारी कार्यालयाने दि. ०१/०१/१९९८ रोजीच्या आदेशान्वये कर्ज उभारणीस परवानगी देण्यात आली आहे.

उक्त नमूद शासन ज्ञापनाच्या आधारे विविध वित्तीय संस्थेकडून मे. महाराष्ट्र थिएटर प्रा. लि. यांनी कर्जाची उभारणी केलेली आहे. त्यापैकी सन २०१३ मध्ये खालील नमूद वित्तीय संस्थेकडून शासकीय मिळकतीवरील इमारतमधील भाग गहाण ठेवून कर्जाची उभारणी केल्याची समोर आली आहे.

गहाण खत करार	गहाण क्षेत्र	कर्ज रक्कम	हस्तांतरण क्षेत्र	हस्तांतरण दिनांक / व्यक्ती
१४/०९/२०१२ देना बँक व महाराष्ट्र थिएटर	बेसमेंट- १४८४१.१५ चौ.फूट, ६ वा मजला- १७८८८.८१ चौ.फूट, टेरेस, १९८५.०० चौ.फूट ७ वा मजला- १५०४३.९१ चौ.फूट टेरेस- ८०० चौ.फूट ८ वा मजला- २४८० चौ.फूट टेरेस २०८५.४१ चौ.फूट	६५,३५,००,०००	६ वा मजला १०५९३ चौ.फूट सोबत ४ कार पार्किंग, टेरेस १८२४ चौफूट	दि.१८/०३/२०१९ देना बँक टू मिड डे इन्फो मिडीया लि. (ई-ऑक्शनद्वारे) विक्री किंमत रु.३६,४५,००,०००/-
२८/०३/२०१३ देना बँक व महाराष्ट्र थिएटर	३ रा मजला- १३१०० चौ.फूट	३५,००,००,०००	३ रा मजला (३ बी, ३ सी) ९२९७ चौफूट सोबत ४ कार पार्किंग	दि.१८/०३/२०१९ देना बँक टू व्हीआरएसएम (ई-ऑक्शनद्वारे) विक्री किंमत रु.२८,३२,००,०००/-



महिला अधिकारी अधिनियम  
२००५ अंतर्गत महिला

२६/०३/२०१४ देना बँक व महाराष्ट्र थिएटर	५ वा मजला- (५वी व ५सी) १६०२७ चौ.फूट ऑफिस प्रिमायसेस चे बेसमेंट १००० चौ.फूट, पोडीयम पार्किंग १७ nos.	२८,५६,००,०००	५ वा मजला- (५वी व ५सी) १४१९ चौ.फूट ऑफिस प्रिमायसेस चे बेसमेंट १००० चौ.फूट, सोबत ४ कार पार्किंग	दि.१८/०३/२०१९ देना बँक टू म्युझिक ब्रॉडकास्ट लि. (ई-ऑक्शनद्वारे) विक्री किंमत रु.३२,६२,००,०००/-
३१/०१/२०१३ अलाहाबाद बँक व महाराष्ट्र थिएटर	बेसमेंट- १००० चौ.फूट, ४ वा मजला- १३१३२ चौ.फूट, ५ वा मजला- २६८० चौ.फूट	५५,००,००,०००	बेसमेंट १००० चौफूट	दि.३०/०३/२०१९ अलाहाबाद बँक टू मिड डे इन्तो मिडीया लि. (ई-ऑक्शनद्वारे) विक्री किंमत रु.१,२८,००,०००/-
एकूण		१,८३,९१,००,०००		९८,६७,००,०००

मे. महाराष्ट्र थिएटर प्रा. लि. यांनी त्यांच्या खुलाश्यामध्ये आम्ही जमिनीवर कर्जाची उभारणी केलेली नसून जिल्हाधिकारी व भाडेपट्टेदार (मे. महाराष्ट्र थिएटर प्रा. लि.) यांचेमध्ये दि. ०५/१२/२००५ रोजी झालेल्या करारनाम्यातील अट क्र. ११(vii)नुसार इमारतीमधील स्ट्रक्चरवर कर्जाची उभारणी केल्याचे नमूद केले आहे. तसेच शासन जापन दि. ०४/०९/१९९७ अन्वये देण्यात आलेल्या गहाण परवानगीनुसार ५०% अनर्जित उत्पन्नाची रक्कम केवळ जमिनीच्या हस्तांतरणाकरीता लागू असून इमारतीमधील क्षेत्राकरीता लागू नाही. त्यामुळे शर्तभंग झालेला नाही. दि. ०५/१२/२००५ रोजीच्या करारनाम्यातील अट क्र. (२) "The lessee is permitted to mortgage the lease hold rights or part thereof with bank or financial institute, subject to conditions laid down in government in revenue and forests deapartment memorandum no. Land-2697/C.R.7019/j-3 dt. 04/09/1997. The lessee should strictly observe the said conditions and comply." तसेच सदर करारनाम्यातील अट क्र. ११ (vii) That the lessee shall not directly or indirectly transfer, assign, encumber, mortgage land or part with its interest under or benefit of this lease of land in manner thereof, without the previous consent in writing of the Government. Government will be free to refuse such consent or grant it subject to such conditions including a condition regarding the payment of premium as Government may in its absolute discretion think fit. However this condition is subject to clause २ hereinabove and shall not be applicable to the lease in case if it transfer, assigns, encumbers, mortgages or parts with its interest in respect of the structure/structures. अशी आहे.

परंतु, महाराष्ट्र जमीन महसूल संहिता १९६६ मध्ये जमिनीची व्याख्या स्पष्ट करण्यात आलेली आहे. त्यामध्ये जमीन यांचा अर्थ जमिनीपासून मिळवावयाच्या फायद्याचा, आणि भूमीस संलग्न असलेल्या वस्तूंचा किंवा भूमीस संलग्न असलेल्या वस्तूशी कायम जोडलेल्या कोणत्याही वस्तूंचा आणि तसेच, गावांच्या किंवा निश्चित केलेल्या इतर प्रदेशांच्या महसूलातील किंवा खंडातील हिस्सा किंवा त्यावरील आकार, यांचा समावेश होतो. जमीन यांचा अर्थ जमिनीचा पृष्ठभागच नसून त्यावर माती असलेला व त्याखाली असेल्या सर्व गोष्टी घेतात. यामध्ये झाड, झुडूप, गवत वाळू इमारत यांचा समावेश होतो. स्थावर मिळकतीमध्ये जमिनीचा अंतर्भाव होतो, त्याचप्रमाणे जमिनीपासून मिळणारे उत्पन्न म्हणजेच इमारत की जी

जमीनी वारिष्ठ धारक अधिनियम  
२००२ अंशित प्रमाण

जमिनीशी कायमची जोडलेली असते. तसेच भाडेपट्टेदार यांना भाडेपट्टा हक्क तारण ठेवून कर्ज उभार असल्याने भाडेपट्टा हक्क तारण ठेवण्यास शासनाने परवानगी दिलेली असून या जापनाच्याच अ भाडेपट्टा हक्क तारण ठेवून कर्जाची उभारणी भाडेपट्टेदार यांनी कर्जाची उभारणी केलेली असल्याने हे भाडेपट्टेदार मे. महाराष्ट्र थिएटर प्रा. लि. यांनी जमिनीवर कर्ज उभारणी न करता इमारतीमधील जागेक कर्ज उभारणी केलेली असल्याचे म्हणणे संयुक्तीक ठरत नाही.

त्याचप्रमाणे करारनाम्यातील अट क्रमांक ११(ix) मध्ये नमूद करण्यात आले आहे की, "To abide by other relevant provisions of Maharashtra Land Revenue Code १९६६ (Mah. Act. No. XLI of १९ and the rules made thereunder and any amendments thereof." उपरोक्त बाबीचे अवलोकन व कंपनीने जरी सदर जमिनीचे थेट हस्तांतरण केले नसले तरी जमिनीवरील बांधकामातील भाग (एफ.एस.३ म्हणजेच क्र. ३ रा, ४ था, ५ वा, ६ वा, ७ वा, ८ मजला व बेसमेंट तारण ठेऊन त्याचे अन्य व्यक्ती संर लिलावाने विक्री झाल्याचे म्हणजेच जमिनीच्या भाडेपट्ट्यामधील प्रमाणशीर तत्वावर निर्माण होणाऱ्या हव विनापरवानगी हस्तांतरण केलेले आहे, ही बाब शर्तभंग करणारी ठरते.

ज्या अर्थी, महाराष्ट्र जमीन महसूल अधिनियम १९६६ चे कलम ७२ मध्ये "जमीन महसूल हा जमिनी वारिष्ठ धार असेल" अशा आशयाची तरतूद आहे. तसेच कलम २६४ मध्ये "जमीन महसूलाचे दायित्व" या सं पुढीलप्रमाणे तरतूद आहे:-

**कलम २६४-जमीन महसूलाचे दायित्व-**

- (१) जमिनीचा वारिष्ठ धारक किंवा तो गैरहजर असल्यास जमिनीचा प्रत्यक्ष ताबा ज्या व्यक्तीकडे अस व्यक्ती, धारण केलेल्या जमिनीवर देणे असलेल्या जमीन महसूलाबद्दल जातीने व मालमत्तेच्या जबाबदार असेल.
- (२) जमिनीबद्दल देणे असलेल्या जमीन महसूलाची थकबाकी ही, तीत हितसंबंध असणाऱ्या व्यक्तींन रकमेची मागणी करणाऱ्या व जमिनीवर किंवा जमिनीजवळ लावण्यात आलेल्या नोटिशीत व विनिर्दिष्ट करण्यात येईल त्या दिनांकास किंवा त्या दिनांकाच्या आत ती देण्यात कसूर केल्यात जमिनीवर व तिच्या प्रत्येक भागावर प्रमुख भार असेल."

7. भाडेपट्टेदार यांनी शासकीय जमिनीवरील इमारती गहाण ठेवून निष्कर्षातील मुद्दा क्र. ६ मधील तक्रियाप्रमाणे मे. महाराष्ट्र थिएटर प्रा. लि. यांनी कर्ज उभारणी केलेली आहे. कोणत्याही बँकेकडून/ संस्थेकडून कर्ज उभारणी केल्यानंतर त्यांची नियमानुसार वेळेत परतफेड करणे हे कर्जदाराचे कर्तव्य ई-ऑक्शनमधून इमारतीमधील जागा विकत घेतल्यानंतर खरेदीदार यांनी जिल्हाधिकारी कार्यालयास दस्तऐवज सादर केले आहेत. परंतु, अटी व शर्तीमध्ये नमूद केल्याप्रमाणे बँक व भाडेपट्टेदार यांनी कोणत्याही प्रकारची पूर्वसूचना जिल्हाधिकारी कार्यालयास दिलेली नाही. कर्जाची परतफेड न दे सप्टेंबर, २०१७ च्या सुमारास "आर्थिक मालमत्तेचे सुरक्षितकरण आणि पुनर्रचना आणि सुरक्षा व्याव बजावणी कायदा २००२" अंतर्गत केलेल्या कारवाई बाबतचा निकाल देण्यात आला. निकालानुसार थकित कर्जाची रक्कम वसूल करणेकामी भाडेपट्टेदाराने प्रदान करण्यात आलेल्या जागेवरील इमारत मजल्याची मालमत्ता जप्त केली व बांधकाम केलेल्या विविध मजल्यांची विक्री करण्यात जाहिरनामा प्रसिध्द केला. त्यापैकी मजला क्र. ३ रा, ५ वा, ६ वा व बेसमेंट बँकांनी As is where is वर लिलावाद्वारे विक्री केली. शासनाकडील दि.०४/०९/१९९७ रोजीच्या जापनानुसार १

परवानगीप्रमाणे शासनाने दिलेल्या जमिनीच्या भाडेपट्ट्याचे हक्क (lease hold right) तारण ठेवून कर्जाची उभारणी करण्यास परवानगी देण्यात आलेली आहे व त्याआधारेच त्यांनी विविध बँकेकडून कर्जाची उभारणी केलेली आहे. त्यामुळे या ठिकाणी भाडेपट्ट्याचे हक्काचे प्रमाणशीर तत्वावर हस्तांतरण होत असल्याने शासन जापन दि.०४/०९/१९९७ अन्वये दिलेल्या परवानगीमधील अट 1(ब) व करारनाम्यातील अटीचा विचार करता, तसेच जिल्हाधिकारी कार्यालयाकडील दि.१२/१२/२००१ रोजीच्या आदेशाप्रमाणे सदर भूखंड विकसित करून कार्यालये बांधून त्याचे विक्री, हस्तांतरण, साठेकरार, मुखत्यारपत्र कोणत्याही प्रकारचे त्रयस्थ व्यक्तींचे हितसंबंध निर्माण करणे या सर्व गोष्टींमधून मिळणाऱ्या अशा विक्रीपोटी प्राप्त झालेल्या रक्कमेमधून शासनाचा अनर्जित रक्कमेचा ५० टक्के हिस्सा शासनास देय आहे या निष्कर्षाप्रत मी आले आहे. सदर इमारतीमधील हस्तांतरण क्षेत्र त्यांनी विक्री अथवा हस्तांतरीत कोणास केलेले नसून त्यांनी केवळ बँकेकडे गहाण ठेवलेले आहे सदरच्या हस्तांतरण क्षेत्राची विक्री/लिलाव/हस्तांतरण हे बँकानी केली असल्याने त्यांनी सदरचा लिलाव अथवा विक्री करण्यापूर्वी जिल्हाधिकारी कार्यालयाची परवानगी घेणे आवश्यक होते. तशी त्यांनी परवानगी न घेतल्याने सदरची हस्तांतरीत रक्कम संबंधीत बँकेकडून वसूल करावी असे भाडेपट्टेदार संस्थेचे म्हणणे आहे. परंतु, शासन निर्णय दि. २५/०५/२०१७ मधील ४ (ब) नुसार "कर्जदार व्यक्ती/संस्था यांनी शासकीय/नझूल जमिनीवरील संबंधित इमारतीमधील सदनिका/गाळा तारण ठेवून घेतलेल्या कर्जाची परतफेड केली नाही तर त्याची सर्वस्वी जबाबदारी त्या व्यक्ती/संस्था यांची राहिल" असे नमूद करण्यात आलेले आहे. तसेच सुनावणीदरम्यान बँकेने Canara Bank Ashram Road V. Collector of Stamps Special Civil Application No. २११३ of २०२२ मधील मा. उच्च न्यायालय, गुजरात यांचे दि. ०३/०७/२०१३ रोजीचे आदेश सादर केलेले त्यामध्ये .... taking possession, merely gets a right to sell the property on behalf of the debtor and any sale made by the secured creditor should be deemed to be a sale made by the debtor himself.. असे नमूद करण्यात आलेले आहे. यावरून महाराष्ट्र थिएटर प्रा. लि. यांनी कर्जाची परतफेड न केल्याने त्यांच्या वतीने बँकेने लिलाव केलेला असल्याने विक्री व्यवहारास महाराष्ट्र थिएटर प्रा. लि. हे सर्वस्वी जबाबदार उरतात. त्यामुळे विक्री/हस्तांतरणापोटी अनर्जित उत्पन्नाची रक्कम बँकाकडून वसूल न करता जबाबदार महाराष्ट्र थिएटर प्रा. लि. यांचेकडून वसूल करणे आवश्यक आहे या निष्कर्षाप्रत मी आले आहे. सबब, शासकीय जमीन हस्तांतरण प्रकरणामध्ये शासन निर्णय दि.२८/०९/२०१४ नुसार शासकीय जमिनीच्या बाबतीतील शर्तीची नियमानुकूल करण्याच्या प्रकरणात देखील शिघ्रसिद्धगणकाच्या किंमतीपेक्षा प्रत्यक्ष खरेदी विक्रीची किंमत जास्त असल्यास ती किंमत विचारात घेऊन अनर्जित उत्पन्न व दंडाच्या रकमेची आकारणी करण्यात यावी अशी तरतुद असल्याने लिलावाद्वारे हस्तांतरीत क्षेत्राचे सन २०१८-१९ च्या शिघ्रसिद्धगणकानुसार बाजारमूल्य रक्कम रु. १,१६,२३,३०,४५२/- इतकी असून त्याच्या ५०% अनर्जित उत्पन्नाची रक्कम रु.५८,११,६५,२२६/- इतकी येत आहे. (सौबत गणना तक्ता) सदर रक्कम भरणा केल्यानंतर शासकीय जमिनीवर खरेदीदार यांना कशा प्रकारे भाडेपट्ट्याचे हक्क देण्यात यावेत? यासंदर्भात शासनाकडून मार्गदर्शन प्राप्त करून घेणे योग्य राहिल.

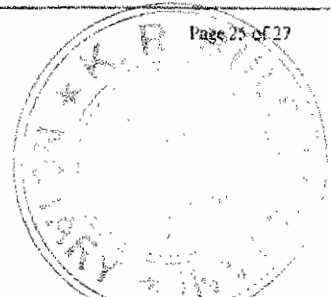
८. प्रकरणात तहसिलदार, अंधेरी यांचेकडील दि. १४/०१/२०२० रोजीच्या अहवालाप्रमाणे आज रोजी सदर मिळकतीवर बॅसमेंट + तळमजला + १ ते ८ याप्रमाणे इमारत उभी आहे. तसेच थिएटर व दुसरा मजला बँकेच्या ताब्यात असल्याचे दिसून येत आहे. त्याचप्रमाणे भाडेपट्टेदार संस्थेने दि.२३/०३/२०२१ रोजीच्या

माहिती अधिकारी अधिनियम

लेखी निवेदनामध्ये थिएटर बंद असून बँक ऑफ बडोदा (देना बँक) यांनी सील (attachment) केले उ ज्यावेळी बँक थिएटर release करेल त्यावेळी ते चालू करू असे नमूद केले आहे. याचाच थिएटर क्षेत्रावर देखील भाडेपट्टेदार यांनी कर्ज उभारणी केल्याचे स्पष्ट होत असून त्याची परतफेड न केल्या बँकेने सदर थिएटर सील केले आहे. तसेच मे. म्युझिक ब्राडकास्ट लि. यांचेकडील दि.२०/०१/२०१२ रोजीच्या खुलाश्याचे अवलोकन करता महाराष्ट्र थिएटर प्रा. लि. यांनी शासकीय भूखंडावरील इमारतीमजले अथवा भाग शासनाची कोणतीही परवानगी न घेता अथवा शासनास न कळविता देना बँक, अँक बँक, कॅनरा बँक व अलाहाबाद बँक यांचेकडे गहाण ठेवलेला आहे. याचाच अर्थ शासनाने दिलेल्या तर परवानगीचा चापर करून, करारनाम्यातील अटीचा चुकीचा अर्थ काढून तसेच जिल्हाधिकारी कार्याल तारणाबाबतची कोणतेही माहिती न देता जवळपास संपूर्ण इमारत गहाण ठेवल्याचे दिसून येत आहे.

सुनावणीमध्ये याबाबतची दस्तऐवज बँकेने किंवा भाडेपट्टेदार यांनी सादर केलेली नाही. परंतु याबाब माहिती शासकीय जमिनीवरील इमारतीमधील भाग तारण ठेवून कर्जाची परतफेड न केल्यामुळे धिा दुसरा मजला व सातवा मजला देखील वित्तिय संस्थानी सील केल्याचे दिसून येत आहे. स सुनावणीकामी उपस्थित असलेल्या देना बँक (आता बँक ऑफ बडोदा) व अलाहाबाद बँक (आता ईी बँक) यांचेकडून उक्त नमूद तक्रारव्यतिरिक्त महाराष्ट्र थिएटर प्रा. लि. यांना भाडेपट्ट्याने दिले जमिनीवरील आणखी इमारतीमधील किती जागा/भाडेपट्ट्याचे हक्क गहाण ठेवले आहेत. किती रक्क कर्ज उभारलेले आहे. कर्ज उभारणी करता सादर केलेली कागदपत्रे त्याचप्रमाणे कर्जाची परतफे केल्याबाबत काही कायदेशीर कार्यवाही सुरु आहे किंवा कसे? याबाबत तपशीलवार माहिती प्राप्त करून आवश्यक ठरते, त्याप्रमाणे सदर इमारतीमधील अँकसीस बँक व कॅनरा बँक यांचेकडून देखील उक्तप्र माहिती प्राप्त करून घेणे आवश्यक ठरते. तसेच शासन/जिल्हाधिकारी यांच्या पूर्वपरवानगीशि लिलावाची कोणतीही कार्यपद्धती अवलंबण्यात येऊ नये असे स्पष्ट सूचना त्यांना देणे योग्य आहे.

९. दि. २७/०२/२००९ रोजीच्या शासन निर्णयाप्रमाणे बँकेने ( देना बँक) अनिवार्य प्रक्रियेची पूर्तता न केले तसेच बँकेने लिलावाद्वारे बाजारमूल्याच्या कमी दराने लिलाव केला असल्याचे तसेच सदर श निर्णयाप्रमाणे शासन/जिल्हाधिकारी यांची पूर्वपरवानगी न घेतल्याने लिलावाद्वारे मालमत्ता हस्तांतरणास राहत नाही असे भाडेपट्टेदार संस्थेचे म्हणणे आहे. सदर शासन निर्णयातील अट क्र. १ " विविध स व्यवती वा कंपनी यांना विविध प्रयोजनासाठी कब्जेहक्काने वा भाडेपट्ट्याने मंजूर करण्यात आले शासकीय जमिनीची न्यायालयाकडून, वित्तिय संस्थेकडून, महसूल लवादाकडून देण्यात आले आदेशामुळे अथवा अन्य प्रकारे थकबाकी वसूलीच्या कोणत्याही कारणास्तव विक्री, हस्तांतरण वा लि करण्याची वेळ आल्यास, लिलाव करण्यासाठी शासनाची पूर्वपरवानगी बंधनकारक आहे. अन्यथा खरेदी-विक्री बेकायदेशीर होईल व ती शासनावर बंधनकारक होणार नाही" अशी तरतूद आहे. लि करता देना बँकेने(बँक ऑफ बडोदा) व अलाहाबाद बँकेने (इंडियन बँक) शासन/जिल्हाधिकारी पूर्वपरवानगी घेतलेली नाही ही बाब खरी आहे. परंतु भाडेपट्टेदार या नात्याने महाराष्ट्र थिएटर प्रा. लि. इमारतीमधील मजल्याचा लिलाव होणार आहे ही बाब जिल्हाधिकारी/शासन यांच्या निर्देशनास आणून आवश्यक होते. परंतु त्यांनी सदर बाब जिल्हाधिकारी/शासन यांच्या निर्देशनास आणून दिलेली किंबहुना कोण-कोणत्या बँकेकडून किती कर्ज घेतलेले आहे याबाबतची माहिती दे जिल्हाधिकारी/शासन यांना दिलेली नाही. त्यामुळे केवळ महाराष्ट्र थिएटर प्रा. लि. हे या लिला





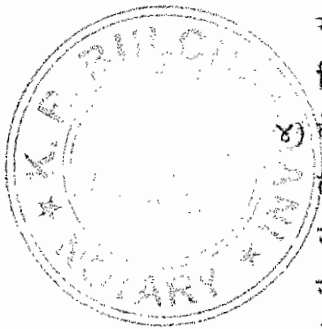
जबाबदार आहेत. बँकाकडील जरी कर्जाच्या रक्कमेची परतफेड कर्जदार यांनी न केल्यामुळे "आर्थिक-मालमत्तेचे सुरक्षितकरण आणि पुनर्रचना आणि सुरक्षा व्याजअंमल वजावणी कायदा २००२ नुसार कर्जदार यांच्या वतीने बँकेने जरी लिखावाद्वारे शासकीय जमिनीवरील भाग विक्री केलेली योग्य असली तरी ती निश्चितच समर्थनीयेदखील नाही. सबब, यापुढे बँकानी शासनाच्या जमिनी/जमिनीवरील इमारतीमधील कोणताही भाग लिखावाद्वारे विक्री करण्यापूर्वी रितसर जिल्हाधिकारी कार्यालयाची पूर्वपरवानगी घ्यावी अशी ताकीद बँकाना देणे आवश्यक राहिल.

उक्त निष्कर्ष विचारात घेता भाडेपट्टा करारनामा दि. ०५/१२/२००५ मधील अट क्र. (२) व शासन जापन दि. ०४/०९/१९९७ अन्वये दिलेल्या तारण परवानगीमधील अट 1(ब) चा भंग भाडेपट्टेदार यांनी केला आहे. तसेच शासन जापन दि. ०७/११/२००१ मधील अट क्र. (अ) नुसार विहित मुदतीत बांधकाम केलेले नाही. परंतु नैसर्गिक न्यायतत्वाच्या दृष्टीने भाडेपट्टेदार यांनी केलेला शर्तभंग नियमानुकूल करून घेण्यासाठी शासनाच्या देय रक्कमा भरण्याची एक संधी देण्यात येत आहे. परंतु आदेशित रक्कमांचा भरणा भाडेपट्टेदार यांनी भरणा न केल्यास करारनाम्यातील अट क्र २० " that the land with structure thereon will be liable to be resumed to government without payment of any compensation for breach of the above conditions' नुसार सदर जमीन शासनजमा करण्यास पात्र आहे.

सबब, उपरोक्त वस्तुस्थिती विचारात घेऊन मी, निर्धा चौधरी, जिल्हाधिकारी, मुंबई उपनगर खालीलप्रमाणे आदेश देत आहे.

#### आदेश

- १) महाराष्ट्र थिएटर प्रा. लि. यांनी बांधकाम मुदतवाढीची रक्कम रु. रु. २,१५,७७,१८५/- GRAS प्रणालीअंतर्गत ऑनलाईन ३० दिवसात शासनजमा करावी.
- २) महाराष्ट्र थिएटर प्रा. लि. यांनी दि. ०१/०१/२००७ ते दि. ०६/०७/२०२२ पर्यंत पोटभाड्याची अनुज्ञप्त रक्कम रु. ७,१०,७८,२७९/- GRAS प्रणालीअंतर्गत ऑनलाईन ३० दिवसात शासनजमा करावी.
- ३) मौजे बांद्रा ता. अंधेरी स.नं. ३४१ पै न.भू.क्र. ६२९/१२५२ मधील शासकीय जमिनीवरील लिखावाद्वारे हस्तांतरित क्षेत्राकरीता ५०% अनर्जित रक्कम रु. ५८,११,६५,२२६/- महाराष्ट्र थिएटर प्रा. लि. यांनी GRAS प्रणालीअंतर्गत ऑनलाईन ३० दिवसात शासनजमा करावी. तसेच याव्यतिरिक्त सदर इमारतीमधील गहाण ठेवलेल्या व कोणकोणत्या बँकेकडून किती कर्जाची उभारणी केलेली आहे याबाबत माहिती जिल्हाधिकारी कार्यालयास ७ दिवसांत सादर करावी.
- ४) देना बँक (आता बँक ऑफ बडोदा) यांचे ताब्यात थिएटर व अलाहाबाद बँक (आता इंडियन बँक) यांचे ताब्यात दुसरा मजला आहे. सबब, या शासकीय इमारतीवर घेण्यात आलेल्या कर्जाची माहिती कर्ज घेताना सादर केलेली कागदपत्रासह जिल्हाधिकारी कार्यालयास सादर करावी. तसेच यापुढे शासकीय जमिनीचा/इमारतीमधील भाग लिखावाद्वारे विकण्यापूर्वी जिल्हाधिकारी/शासन यांची रितसर परवानगी घेण्यात यावी.



## माहिती अधिकारी अधिनियम

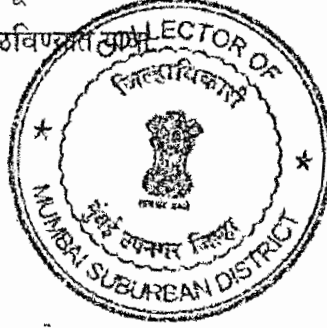
2005 मधील माहिती

- ५) सदर इमारतीमधील कॅनरा बँक व अॅक्सिस बँकेकडून कर्जाच्या रक्कमेची माहिती प्राप्त करून घ्यावी तसे शासन/जिल्हाधिकारी यांच्या पूर्वपरवानगीशिवाय लिलावाची कोणतीही कार्यपद्धती अवलंबण्यात येऊ न असे स्पष्ट सूचना त्यांना देण्यात याव्यात.
- ६) आदेशातील अ. क्र. १ ते ३ मधील रक्कमा महाराष्ट्र थिएटर प्रा. लि. यांनी शासनजमा केल्यानंत ऑक्शनमध्ये खरेदी केलेल्या खरेदीदारांच्या अर्जावर पुढील कार्यवाही करण्यात यावी तसेच शासकी जमिनीवर खरेदीदार यांना कशा प्रकारे भाडेपट्ट्याचे हक्क देण्यात यावेत? यासंदर्भात शासनाकडून मार्गदर्श प्राप्त करून घ्यावे.
- ७) आदेशातील अ. क्र. १ ते ३ मधील रक्कमा विहित मुदतीत महाराष्ट्र थिएटर प्रा. लि. यांनी शासनजमा केल्यास करारनाम्यातील अट क्र. २० नुसार जमीन बांधकामासह शासनजमा करण्याची कार्यव तहसिलदार, अंधेरी व नगर भूमापन अधिकारी, वांद्रे यांनी करावी.
- ८) आदेश सर्व संबंधीतांना कळविण्यात येईल.

ठिकाण : वांद्रा, मुंबई

दिनांक : १३/०७/२०२२

13 JUL 2022



(निधी चौधरी)

जिल्हाधिकारी, मुंबई उपनगर

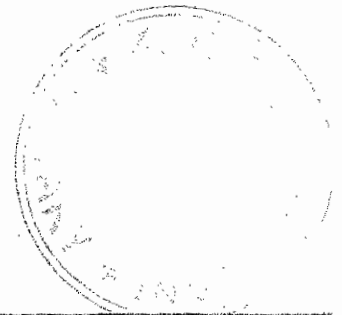


नगर भूमापन अधिकारी वांद्रे कार्यालय  
माहिती : १३/०७/२०२२ अन्वये  
श्री. / श्री. (श्री. दि. १३/०७/२०२२) अन्वये  
यांचा २०/०७/२०२२ अन्वये  
मागणी देण्यात येणाऱ्या कर्जाची पुरविणूत  
आलेली आहे. पत्रांक १३७२५/२०२२

28 JUL 2023 ' 8202 711 8 2'

True Copy

Advocate For Plaintiffs / Petitioner's





IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. OF 2023

Maharashtra Theatres Private Limited & Anr Petitioners

VERSUS

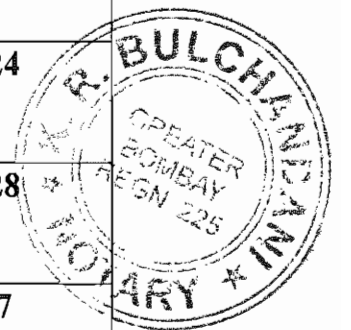
The State of Maharashtra & Ors.

Respondents

INDEX

Sr. No	Particulars Volume I	Page Nos.
	Proforma	I - III
	Synopsis	A - E
1	Petition dated September ___, 2023	1 to 28
2	Vakalatnama dated September ___, 2023	29 -32
3	Memorandum of Registered Address	33
4	List of Documents	34
5	<u>Exhibit "A"</u> Copy of Order dated 31st March 2023	35 - 47
6	<u>Exhibit "B"</u> Copy of resolution dated 18.06.1969 (without enclosures)	48-49
7	<u>Exhibit "C"</u> Copy of order dated 11.09.1969 (without enclosures)	50
8	<u>Exhibit "D"</u> Copy of Memorandum dated 7.11.2001 in Marathi	51 - 52
9	<u>Exhibit "D-1"</u> Office translation of Memorandum dated 7.11.2001	53 - 57
10	<u>Exhibit "E"</u> Copy of Order 23.11.2001 in Marathi	58 -59

11	<b><u>Exhibit "E-1"</u></b> Office translation of Order 23.11.2001 in English	60 - 64
12	<b><u>EXHIBIT "F"</u></b> Copy of Order dated 12.12.2001 in Marathi	65 - 66
13	<b><u>Exhibit "F-1"</u></b> Office translation of Order 12.12.2001 in English	67 - 70
14	<b><u>Exhibit "G"</u></b> Copy of Lease Agreement dated 5.12.2005	71 - 84
15	<b><u>Exhibit "H"</u></b> Copy of Full Occupation Certificate	85
16	<b><u>Exhibit "I"</u></b> Copy of policy dated 11.01.2017 in Marathi	86 - 91
17	<b><u>Exhibit "I-1"</u></b> Office translation of policy dated 11.01.2017 in English	92 - 105
18	<b><u>Exhibit "J"</u></b> Copy of Notice dated 4.10.2018 in Marathi	106 - 108
19	<b><u>Exhibit "J-1"</u></b> Office Translation of Notice dated 4.10.2018 in English	109 - 112
20	<b><u>Exhibit "K"</u></b> Copy of Show Cause Notice dated 29.8.2019 in Marathi	113 - 114
21	<b><u>Exhibit "K-1"</u></b> Office translation of Show Cause Notice dated 29.8.2019 in English	115 - 118
22	<b><u>Exhibit "L"</u></b> Copy of Notice dated 22.02.2021 in Marathi	119 - 120
23	<b><u>Exhibit "L-1"</u></b> Office translation of Notice dated 22.02.2021 in English	121 - 124
24	<b><u>Exhibit "M"</u></b> Copy of fresh/amended Show Cause Notice dated 14.02.2022 in Marathi	125 - 128
25	<b><u>Exhibit "M-1"</u></b> Office translation of fresh/amended Show Cause Notice dated 14.02.2022 in English	129 - 137
26	<b><u>Exhibit "N"</u></b> Copy of reply dated 25.04.2022 (without Exhibits)	138 - 158
27	<b><u>Exhibit "O"</u></b> Copy of order dated 13.07.2022 in Marathi	159 - 186



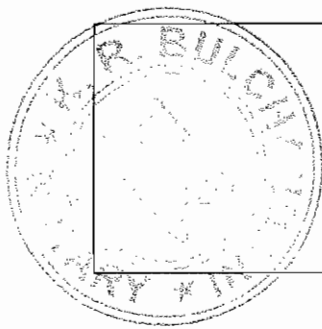
Volume II		
28	<b>Exhibit "O-1"</b> Office translation of order dated 13.07.2022 in English	187 - 275
29	<b>Exhibit- "P"</b> Copy of order dated 17.01.2023 in Marathi	276 -296
30	<b>Exhibit- "P-1"</b> Office translation of order dated 17.01.2023 in English	297 - 361
31	<b>Exhibit- "Q"</b> Copy of order/letter dated 7.11.2022 in Marathi	362 - 363
32	<b>Exhibit- "Q-1"</b> Office translation of order/letter dated 7.11.2022 in English	364- 367
33	<b>Exhibit- "R"</b> Copy of Mutation Entry in Marathi	368
34	<b>Exhibit- "R-1"</b> Office translation of Mutation Entry in English	369 - 370
35	<b>Exhibit- "S"</b> Acknowledged copy of letter dated 14.08.2023 (without Annexures)	371 -379
36	Affidavit in support of the Petition	380 -381
37	Advocate's Certificate	382



**Exhibit-O-1**

**District Collector, Mumbai Suburban District**  
**Administration Building, 10<sup>th</sup> floor, Government Colony,**  
**Bandra (W) -51**  
**Fax No.022-265568005, Telephone No.022 -26556719, Email –**  
**Collectormsd@gmail.com**

No.C/Desk-3D/L-235/736/2022



- |  |   |
|--|---|
|  | 1. Maharashtra Theatre Pvt., Ltd.,<br>2. M/s Mid Day Info Media LTD.,<br>3. M/s V.R.S.M. Enterprises LLP,<br>4. M/S Music Broadcast Ltd.,<br>5. Dena Bank (Now Bank of Baroda)<br>6. Allahabad Bank (Now Indian Bank) |
|--|---|

Vs.

Maharashtra Government

**Background:-**

Vide the government decision dated 18/06/1969 and the order dated 11/09/1969 of the District Collector Office the land in Survey No. 341A, Area – 4515. Square Meter, at Mouje Bandra, Tahsil – Andheri was allotted on the 99 years lease to the Maharashtra Theatre Pvt. Ltd., on certain terms and conditions. By the said order of land granting dated 02/01/1970, the possession of the said property i.e. land under question was given to the lease holder.

In the case, on request of the company, vide the memorandum 09/07/1981 the government granted 0.15% carpet

area for bank and shop by assessing the 5% lease on the price of the land by the rate of Rs. 327/- per square meter and for 0.40% carpet area for hotel by assessing 8% lease on the current market rate of the land.

Thereafter, on request made by the Maharashtra Theatre Pvt. Ltd., (Kalamandir, Bandra) seeking the changes again in the changes in use granted to them vide the Government Memorandum dated 30/06/1994, as per the government memorandum dated 30/06/1994. By abiding the provisions in the Development Control Regulation, amongst the total permissible carpet area on the land under question 10% Carpet area for Cinema Theatre and 10% Carpet area for shop and bank and remaining 80% area for hotel was sanctioned by the government by abiding the terms and conditions in order dated 09/07/1981 and other additional terms and conditions as may feel in their view. As well for the land sanctioned/granted for the Maharashtra Theatre Pvt., the permission was given by the government for division of the above mentioned permissible carpet area in proportion of 10%, 10% and 80%. Amongst the above mentioned land, for 80% land to be used for hotel, as per the provision in the original condition, it was instructed to assess rent on the total amount by the 8% by the rate



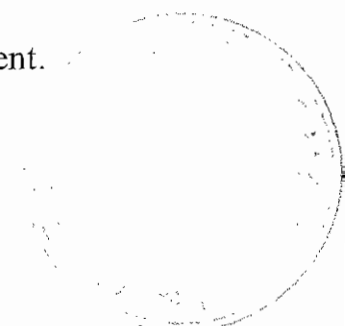
of 1500/- per square meter. Accordingly, the order was passed by District Collector, on dated 19/07/1994.

In the case, regarding the lease assessed, the lease holder Viz. Maharashtra Theatre Pvt. Ltd., has raised points to the government. Accordingly, vide the letter dated 11/11/1994 the government has given the explanation as mentioned hereunder.

a. As per the terms and conditions of the government order dated 01/07/1982 for the land used for the purpose of cinema, shops and banks Rs. 327/- per sq.m., based on the price of the land and 50% of the unearned amount for the area used for shops and banks should be recovered from the lease holder and 5% of the Lease should be levied.

b. Since the government has given approval for different purposes like cinema hall, bank and shops and hotel, Subdivision of plot is sequential. Therefore, there should not be problem for dividing the land to be used for cinema, bank and shops and hotel in proportion of 20% and 80%.

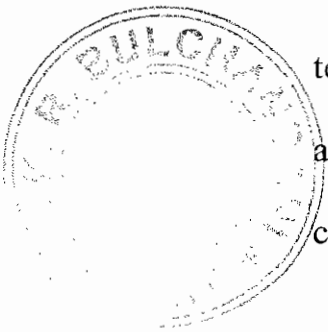
Accordingly, the lessee has submitted an undertaking dated 25/11/1994 to the Collector's Office regarding the payment of 50% of the unearned amount of the net profit received on rent.



Thereafter in the case, vide the Government Memorandum dt. 20/08/1997 as well as the order of this office dated 01/01/1998, the condition i.e. "The Lessee company mentioned in the Para 3(ii) in the Government Memo dated 09/08/1981 itself run hotel and will not give the space in the building to anyone else for running the hotel" was excluded. However, the lessee cannot transfer or sell the land lease rights in any way, was mentioned in the order.

In the case, pertaining to the land at Mouje Bandra, Survey No. 341, allotted to the Maharashtra Theater Pvt. Ltd. vide the Government Memorandum dated 04/09/1997 and dated 01/01/1998, the permission was given to the said company on terms and conditions for mortgaging the lease right of the said land and to raise the loans for up to a maximum limit equal to the current market value of the land in question.

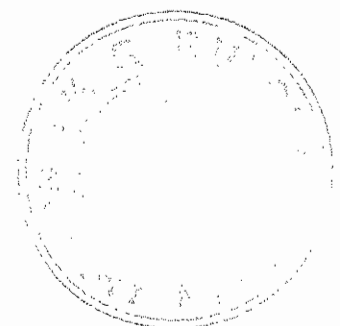
After that, on request made by the company seeking change again in the use, vide the Government Memorandum dated 07/11/2001, by abiding the terms and conditions the government has granted permission for 10% carpet area for movie theater and 90% carpet area for offices amongst the permissible carpet are to be available on the land under question, subject to the provisions of



Development Control Rules. Accordingly, the order dated 12/12/2001 has been passed by the office of District Collector.

Subsequently, in accordance with the request made by the institute to use TDR in the case, as per the provisions of the Government Decision dated 03/03/1999 and dated 09/07/1999, vide the Government Memorandum 20/03/2002 and District Collector's Office 22/04/2004, use of TDR was allowed on the said government plots on usual terms and conditions by levying a temporary surcharge of 3% of the lease price of the said plots. A lease agreement dated 05/12/2005 has also been entered into with lessee Institute.

As it was observed that the lessee institute has not completed the construction within the prescribed time, vide the letter dated 04/10/2018 of the District Collector Office, the lessee institute was informed for paying the amount of Rs.2,07,88,600/- towards extension of construction for the duration of total 3 years i.e. 12/12/2003 to 07/07/2006, as per policy prescribed by the government vide the government decision dated 11/01/2017.

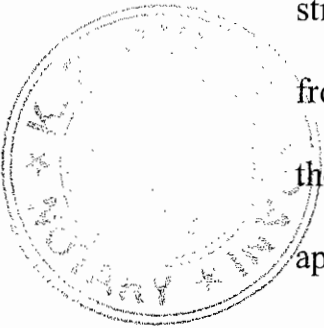




After that 1) Mid-Day Infomedia Ltd. 2) M/s. V. R. S. M. Enterprises LLP and 3) Music Broadcast Ltd. has taken 6th, 3rd and 5th floors respectively by e-auction and requested to this office to get permission to pledge the same. On verifying the said application and the records of the Collector's office, it came to the notice of the office that the lessee has violated the conditions as follows.

1. **Non-construction within the time limit:-** While granting permission for change of use to the company, vide the Government Memorandum dated 15/11/2001, Condition No.(A), it was stipulated that construction should be completed within 2 years from the date of permission and actual use should be started. When the records of the Collector's office were verified in the matter. It appears that the M/s Maharashtra Theater has received Completion certificate from the Municipal Corporation on dated 07/07/2006. Accordingly, the amount towards the extension of the construction informed vide the letter dated 04/10/2018 of the office of the District Collector has not been paid to this office.

2. **Non-Giving of Lease:-** After allotment of land to the company the company requested for change of use from time to time finally vide Govt. Memorandum dated 07/11/2001 and the letter dated

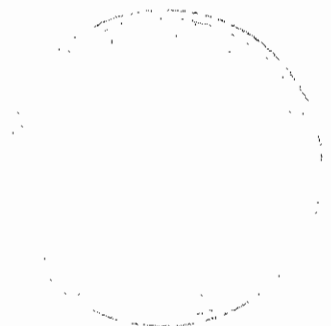


12/12/2001 of Collector's Office the lease was levied and according to the Para No.4, of the agreement dated 05/12/2005, the said matter has been mentioned in detail in respect of lease. The concerned company has paid the lease amount till the year 2013 and after that the company has sublet the said premises to various offices. However, the permission of the district collector as mentioned in condition no. 4 of the agreement, as per the government decision dated 23/11/2001 and 28/08/2004 has not been taken and thus till date the lease amount due has not been paid that means the condition No. 4 of the agreement dated 05/12/2005 has been breached.

### **3. Pledge to Financial Institutions, Not Paying Government**

**Unearned Amount:** After providing the land to the Maharashtra Theater Pvt. Ltd., the concerned had sought permission to get loan from the financial institution for the development of the land. Vide the Government Memorandum dated 04/09/1997 and District Collector's order dated 01/01/1998, permission was given to raise loans from financial institutions subject to the following conditions

:-



In the No.(1) to (5) of the Government Memorandum dated 04/09/1997 and Collector's order dated 01/01/1998 stated as under :-

1) In case the lending financial institution decides to sell the plot or leasehold right or any part thereof, the following amount shall be paid to the Government as first lien and the mortgagees shall meet their demands from the remaining amount.

a) Lease arrears if any and amount payable as per agreement.

b) For the purposes of determining 50% of the unearned income from the sale amount of the said land, the collector, Mumbai Suburban or any other office appointed by the Government for such purpose shall determine unearned income and if required shall obtain the order of the government.



2. Ninety (90) days notice is given to the concerned financial institution, the agreement entered with MTPL will not be terminated or the land will not be reclaimed. If there is a possibility of redressal of the grievance, the opportunity to do is relevant and the same should be available to the financial institution.


3. In this case, after raising the loan from the financial institution, the certificate from that institution and the suitability of that loan

and a copy of the certificate should be submitted to the government.

4. That MTPL has assured the District Collector that it has not violated any condition and that in the event if MTPL has violated any condition then the said land will be reclaimed again by the Collector.

5. Name and agreement of the financial institution from which the company is going to raise the loan, it will be mandatory to inform the Collector, otherwise, the orders will become invalid.

As the government memorandum dated 04/09/1997 and order dated 01/01/1998 of District Collector has not been followed and thereby the condition No.2 in the agreement dated 05/12/2005 has been breached.



**4. Transferring without permission:** - It was mandatory for the lessee to obtain the permission of the Government/District Magistrate before transferring, selling, mortgaging the leased land or any part thereof. However, this office has noticed that the 3<sup>rd</sup> floor, 5<sup>th</sup> floor (some parts), 6<sup>th</sup> floor of the building constructed on the land under question was mortgaged with the Dean Bank vide the mortgage deed dated 14/09/2012, 28/03/2013, and 26/03/2014,

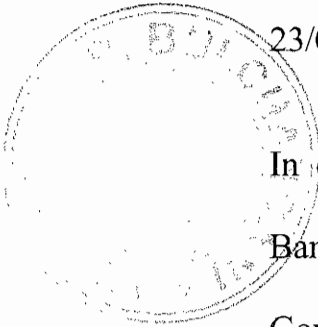
respectively without permission of the district Collector. Also, vide the mortgage deed dated 31/03/2013, the basement, 4th and 5th floor (some parts) of the said construction were mortgaged with Allahabad Bank, without the permission of the District Collector. Similarly, in the case, the said floors are sold through e-auction without license. Therefore, as the amount of unearned income due to the government has not been received by the government, the revenue of the government has been lost. Also in the case, the interest of a third party person/organization has been established on the government land provided on lease. And due to this, Condition no.7 of the lease agreement was breached.



Pursuant to the above mentioned breach of condition, this office has issued the notice on dated 29/08/2019, 06/01/2021 and 22/02/2021 to the original company Maharashtra Theater Pvt. Ltd., as well, this office has issued the notice dated 29/08/2019, 06/01/2021 and 22/02/2021 to Dena Bank (Bank of Baroda). On dated 06/01/2021, notice has been issued to 1) Mid Day Infomedia Ltd., 2) M/s V. R. S. M. Enterprises LLP and 3) Music Broadcast Ltd. Hearings were held in the case from time to time. However, due to the outbreak of Kovid-19, further hearing could not be held. Also, in this case, the loan has been raised from Allahabad Bank

and the part of the basement has been sold through auction, noticed by this office.

By considering the above mentioned facts, as it is observed that the terms and conditions mentioned in the order granting the land in Survey No. 341, Area – 4515 Sq. Mt., at Mouje Bandra, Tahsil – Andheri and terms and conditions in the order pertaining to the permission given on time to time and terms and conditions mentioned in the lease agreement dated 05/12/2005, pertaining to the said land has been violated and therefore, by giving the revised notice to the concerned for giving them opportunity to submit their say on the point that why the said government land along with the construction thereon should not be confiscated to the government, hearing was held in this office. In the case, hearing held on dated 23/05/2022 and after hearing the said case is closed for decision.



In consideration of the above, the area of 4515 sq.m in Mauje Bandra, Andheri S. No. 341 A, is within the scope granted by the Government to Maharashtra Theater Pvt.

As it appears that the terms and conditions mentioned in the said order and terms and conditions of the lease agreement dated 05/12/2005, pertaining to the said land has been violated, hence

regarding submitting says on the point that why the said government land along with the construction thereon should not be restored to the government?, notice to the concerned was sent and thereby informed for attending the hearing at the said office and hearing was arranged for the said purpose. In the said case, after hearing the said matter on dated 23/05/2022, the said case was closed for the decision.

As it appears that the terms and conditions mentioned in the said order and terms and conditions of the lease agreement dated 05/12/2005, pertaining to the said land has been violated, hence regarding submitting says on the point that why the said government land alongwith the construction thereon should not be restored to the government?, notice to the concerned was sent and thereby informed for attending the hearing at the said office and hearing was arranged for the said purpose. In the said case, after hearing the said matter on dated 23/05/2022, the said case was closed for the decision.

**Say submitted by Maharashtra Theatre Pvt. Ltd.:-**

**MOST RESPECTFULLY SHEWETH AS FOLLOWS:**

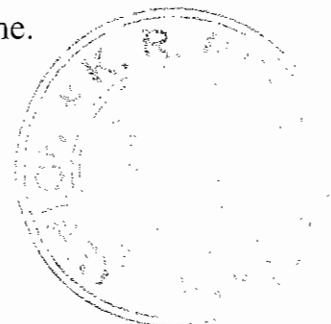


In respect of property being a leasehold plot bearing CTS no. 629/1252 admeasuring 4515 sq.meters ("said land") along with building thereon known as RNA Corporate Centre situated at Village Bandra (East), Mumbai-400051(Hereinafter collectively the "said Property") which is leased to Maharashtra Theatres Pvt. Ltd vide Lease Agreement dated 5th December, 2005

1. That the Respondent No. 1 is represented through Adv. Vidya Adsule and the Vakalatnama thereof is enclosed hereto and present Written Arguments/Reply have been signed, verified and filed by Advocate Vidya Adsule on behalf of Respondent No. 1 and the Respondent No. I reserves their right to file additional Written Submissions.

2. That the notice dated 01.04.2022 ("said notice") was issued by the Collector to the above-mentioned Respondents including the Respondent No. 1 wherein the Hon'ble Collector had issued the said Show Cause Notice seeking explanations on the following issues viz:

- a. Building not constructed within the timeline stipulated.
- b. Nonpayment of lease rent and Unearned Income.





c. No payment of Un-earned income when the said property being mortgaged to bank/ financial institutions.

d. Transfer of the said property part thereof without seeking permission from the Hon'ble Collector, Mumbai Suburban District

3. The said Respondent states that they had already filed and submitted their detailed replies vide their letters both dated 23.03.2021 ("said replies") before the Hon'ble Collector, Mumbai Suburban District in response to the Notice bearing No. C/Desk-3D/L-235/625/2019 dated 29.08.2019 and 22.02.2021 wherein the said Respondent had brought out all the relevant facts and requested the Hon'ble Collector Mumbai Suburban District to not only order/declare the transfer of the auctioned property under question as Null and Void as Respondent no.2 and Respondent no.3 had not committed serious breach by not following the mandatory procedure under GR dated 27.02.2009 but also cause huge loss of revenue to the State Exchequer. The said Respondent No. 1 repeats, reiterates all that it has been mentioned in the said replies and states that the same may be treated as part and parcel and to be read along with the present Replies. The said Respondent No. 1 further also submits that that the said replies shall be treated



as integral part of this Written Submissions / Reply and that the same may be read and construed together.

4. The said Respondent No. 1 also states that it has received a copy of the reply dated 07.04.2022 from Respondent nos. 4 to ("said copy of the reply") on the date of the scheduled hearing and Respondent No. 1 denies all allegations made by them against Respondent in their replies as the same are baseless and with malafide intention and are denied in totality.

5. The said Respondent states that before dealing with the contents of the said notice, the said Respondent No. 1 wishes to bring out the important facts, averments, contentions and submissions as under:

a. The said land being owned by Government of Maharashtra bearing S. No. 341A admeasuring 4515 sq.mtrs situated at village Bandra (E) was given on lease on 18.06.1969 and 11.09.1969 to Respondent No. 1 for a period of 99 (ninety nine years) for construction of Theatre. Thereafter, the possession was handed over to the said notice and accordingly lease period started from 02.01.1970.

b. That change of user from Theatre to other permissible user was granted by State Government from time to time and lastly

permissible user was approved for 1 FSI, 10% FSI for Theatre and 90% for office use vide State Government GR dated 15.11.2001.

c. Subsequently, the Government vide in GR dated 20.03.2002 have granted permission to avail the benefit of TDR on payment of provisional 3% premium at rate of Rs 327/sq.mtrs subject to finalization of policy from State Government and if differential amount arise after fixation of policy same shall be paid by the lessee and this differential amount was arrived at and have been paid by us. Thereafter, a Lease Agreement was executed between M/s Maharashtra Theatre Pvt. Ltd and the then Collector (MSD) 05.12.2005 ("said lease agreement") and the same was registered before the sub – registrar of Assurance. The Respondent No. 1, wishes to reiterate some of the important provisions in the lease agreement.

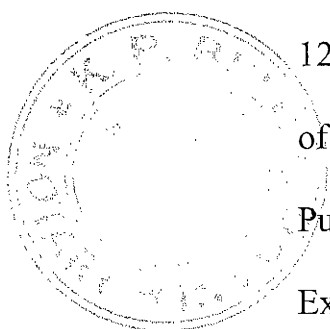
**Clause 8: "that no work will be commenced on the demised and unit the plan, elevations, details and specifications shall have been approved as aforesaid and thereafter they shall not make any alterations in or additions thereto unless such alterations and additions shall have been approved by the MCGM"**

**Clause 7: "that the lessee shall not directly or indirectly transfer, as, encumber, mortgage and or Part with is interest under or benefit of this lease of land in manner thereof, without the previous consent in writing of the Government. Government will be free to refuse much consent or grant it subject to such conditions including a condition regarding.**

The said Respondent No. I rely upon its true interpretation and meaning as given herein below.

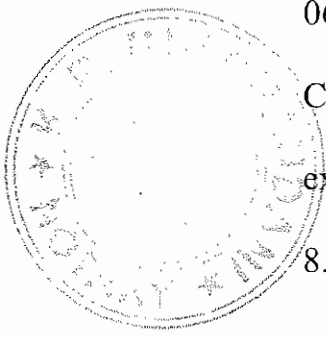
6. Without prejudice to the rights and contentions, the said Respondent No.1 shall now deal with the issues mentioned in the said Notice.

7. With referee to issue No.1, "FAILURE TO CONSTRUCT ON TIME", the said Respondent No. 1 submits that Vide order dated 12/12/2001, Hon'ble Collector had granted permission for change of users i.e. to use 10% for theatre and 90% for office purpose. Pursuant to said Order, said Respondent No.1, had applied to the Executive Engineers, Building Proposal W.S. Bandra (MCGM) for approval of the building plans. But the Executive Engineer (B.P) W.S. declined our request and therefore, the said Respondent No.1, I were compelled us move in appeal before the Hon'ble Chief Minister, U.D. Dept. Govt. of Maharashtra. In the said Appeal



204

bearing File No. CMS/TPB4303/459/CR220/03/UD-11, Hon'ble Chief Minder passed, order on dated 11.05.2004 and subsequent thereafter the plan were sanctioned by MCGM on 19.06.2004 and Commencement Certificate was issued on 08.07.2004. The construction was completed as per the sanctioned plan & OC was issued on 07.07.2006. Incidentally the said Respondent No.1 would like to subunit that previously the then Collector MSD has raised the issue regarding completion of the construction work within 2 (two) years vide their letters No. 11/3D/LO-235, dated 16.03.2011 and upon clarification submitted by us as explained in para No.1 above vide our several letters, including the latest reply dated 06/11/2018 it appears that the same was accepted by the then Collector, MSD and the matter was closed since no demand for extension in time period for construction was raised.

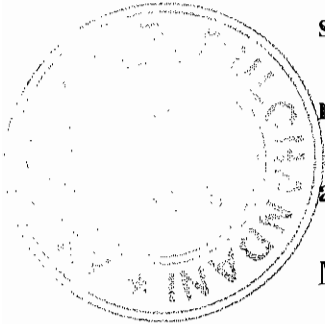


8. The said Respondent No. 1 further submits that the order in appeal passed by Hon'ble Chief Minister, U. Department, Govt. of Maharashtra on 11.03.2004 and thereafter the plans were approved by MCGM permitting the development on the plot of land as granted by your office on 12.12.2001. Thus, the order dated 12.12.2001 has become effective and operative only with the order passed in Appeal dated 11.03.2004 after which the order dated

12.12.2001 was implemented and the building plans were approved by the MCGM on 19.06.2004 and Commencement Certificate issued on 08.07.2004 permitting development on the plot of land. As such, the order dated 12.12.2001 was effective and it was implemented to the date of approval of the building plans on 19.06.2004 and Commencement Certificate dated 08.07.2004 permitting development as contemplated in the order. Therefore, it will be imperative to calculate the period of two years for completion of construction only from 08.07.2004 till 07.07.2006 and the said Respondent No. 1 refers to **clause 8 of the said Lease Agreement, which is reproduced hereunder.**

Clause 8:- **“That no work will be commenced demised land until the plan, elevations, details and specifications?**

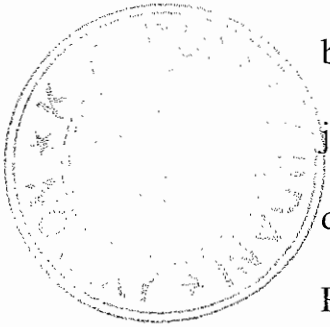
**shall have been approved as aforesaid and thereafter they shall not make any alterations in or additions thereto unless such alterations and additions shall have been approved by the MCCM”**



The said Respondent No. 1 submits that the said clauses clearly states that no work shall be commenced unless and until all the plans, elevations etc. have been approved by MCGM. Hence it's very clear that the Respondent No.1 have completed the

206

Construction of the building the said land within 2 (two) years of the stipulated time and required OC was also received well in time to commence use of the said Building on the said land as per the sanctioned and approved plan. Therefore, the Hon'ble Collector Mumbai Suburban District should have calculated the period of construction for two years from 08.07.2004 s 07.07.2006. The said Respondent No. 1 states the said Respondent No. 1 has already given a detailed reply to the same vide its various reply letters dated 08.03.2004, dated March, 2011, 06.11.2018 and 23.03.2021. The said Respondent No. 1 refers to and relies upon the said letters dated 04.03.2004, dated March, 2011, 06.11.2018 at the time of bearing. The said Respondent No.1 also places reliance upon a judgment passed by the Hon'ble Bombay Hombay High Court dated 20.11.2019 in WP586 of 2018: Raghuleela Builders, M/s Reliance Industries Ltd. vs MMRDA where the Hon'ble Court had restrained MMRDA from levying or to recover premium for delay in construction beyond prescribed period. Based on the contentions and the facts and terms and conditions of the said Lease Agreement the said Respondent No.1 submits that in the above circumstances the cause of action has not at all arrived at to levy the penalty for son completion of the Construction of the said Building in



stipulated time of 2 years and hence the penalty demand proceedings to be dropped.

9. With reference to issue no.2 "NON-PAYMENT OF LEASE/UN-EARNED INCOME", the said Respondent No. 1 subunits that as per clause 4 of said lease agreement dated 05.12.2005 the said Respondent No. 1 were required to pay a yearly lease rent and unearned income. The said Respondent No. 1 further states that as per their records they have paid the yearly lease rent and lumpsum yearly unearned income for letting out on timely basis to Hon'ble Collector/Treasury of the government. and the Lease Rent have been paid till year 2016-2017 and unearned income have been paid till year 2014 -15 However due to unforeseen circumstances and reasons beyond the control of the said Respondent No.1, the payment of yearly lease rent and lumpsum yearly unearned income for letting out units is pending thereafter and the Respondent No. 1 is ready and willing to settle and pay the arrears as per directions of this Hon'ble Collector.

10. The said Respondent No. 1 further states that the said Respondent No. 1 has given parts of the building premises on leave and license to various clients including the said Respondent no. 4 to 6 to whom the said Notice is also addressed by the Hon'ble



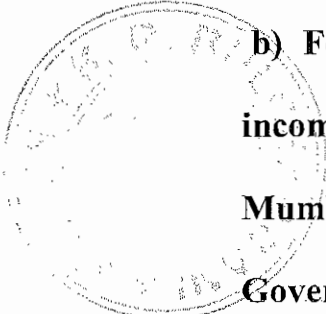


208

Collector, Mumbai Suburban. The said Respondent No. 1 draws reference to the conditions: mentioned in memorandum dated 04.09.1997, the following clauses have been mentioned:

**1. If a lending financial institution sells the plot or lease rights or any part thereof, then, the lending institution will have to pay the following amounts to the Government and the mortgagor will recover their amounts outstanding amount out of the balance amount.**

**(a) The amount outstanding towards the lease, rent and any other amounts due as per the lease agreement.**



**b) For the purposes of determining 50% of the unearned income from the sale amount of the said land, the collector, Mumbai Suburban or any other office appointed by the Government for such purpose shall determine unearned income and if required shall obtain the order of the government.**

**2. Ninety (90) days notice is given to the concerned financial institution, the agreement entered with MTPL will not be terminated or the land will not be reclaimed. If there is a possibility of redressal of the grievance, the opportunity to do is**

relevant and the same should be available to the financial institution.

3. In this case, after raising the loan from the financial institution, the certificate from that institution and the suitability of that loan and a copy of the certificate should be submitted to the government.

4. That MTPL has assured the District Collector that it has not violated any condition and that in the event if MTPL has violated any condition then the said land will be reclaimed again by the Collector.

5. Name and agreement of the financial institution from which the company is going to raise the loan, it will be mandatory to inform the Collector, otherwise, the orders will become invalid.

11. From the bare perusal of the above provisions it is very clear interpretation that the unearned income payable is not on sale, transfer, assignment, lease, mortgage of the units comprising the said building known as "RNA Corporate Park" but is ONLY payable if the said land or any part thereof is sold, transferred, assigned, leased, mortgaged, etc. by the said Respondent to whomsoever.



210

12. With reference to issue no.3 "OFFERING THE SAID LAND AS SECURITY TOWARDS LOAN/FACILITIES AVAILED FROM LENDERS WITHOUT PERMISSION AND PAYMENT OF UNEARNED INCOME" the said Respondent No.1, submits that they have NOT sold and/or assigned and/or transferred, mortgaged etc. whatsoever the said land to whomsoever including to any lenders. The said Respondent No.1 submits that they have mortgaged various units which are constructed on the said land to various lenders.

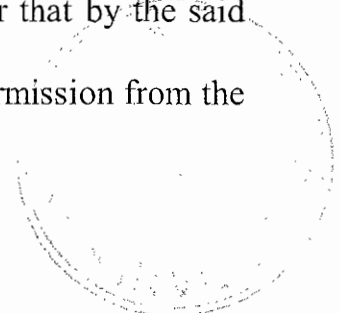
13. Further, the said Respondent No.1 wishes to reiterate clause no. 11 (vii) of the lease agreement. **"that the lessee shall not directly or indirectly transfer, assign, encumber, mortgage land or part with its interest under or benefit of this lease of land in manner thereof, without the previous consent in writing of the Government.**

**Government will be free to refuse such consent or grant it subject to such conditions including a condition regarding the payment of premium as Government may in its absolute discretion think fit. However, this condition is subject to clause 2 hereinabove and shall not be applicable to the lessee in case if it transfers, assigns, encumbers, mortgages or parts with its**

**interest in respect of the structure/ structure/s"** which clearly stipulates that permission/consent of the Government is required in writing only if the said Respondent No. 1 have sold and/or assigned and/or transferred, mortgaged etc. whatsoever the said land or part to whomsoever including to any lenders, which is not applicable in the present case, since only the units are mortgaged hence the question of seeking permission from Hon'ble Collector for offering any units in RNA Corporate Park Building from the Hon'ble Collector does not arise and ipso facto the payment of unearned income thereof.

14. The said Respondent No.1 further states that the said Respondent No. 1 have not mortgaged the said land or part and all loan (s) /facilities the said Respondent No.1 have availed form the difference lenders was ONLY BY offering the units in the said RNA Corporate Park as the Security towards repayment of the respective loans/ facilities availed by them.

15. In addition, it is submitted that, as per the terms of lease agreement dated 05.12.2005, particularly as stipulated in clause 11 (vii) the said Respondent No.1, are permitted to obtain finance by mortgaging the structure or any part of it and for that by the said Respondent No.1 is not required to obtain any permission from the



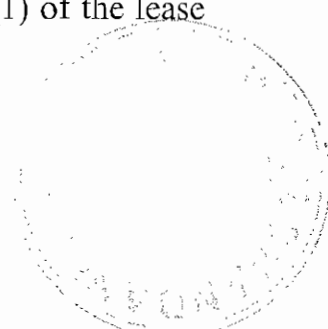
212

Collector, MSD or inform them about it. The said Respondent No. 1 further states that though the said Respondent No.1 was inclined to take loan and keep the salt land as collateral for the purposes of construction of the building the same was not taken and therefore there was no necessity to inform the Government of the same. Therefore, the said Respondent No. 1 has not committed breach and/or violated any of the terms and conditions of the notification dated 04.09.1997 and also of the said Lease Agreement dated 5th December, 2005.

16. With reference to issue no.4 (clause 2 (d) herein) **"TRANSFER WITHOUT PERMISSION"** the said Respondent No. 1 in reply submits and reiterates what it has mentioned hereinabove that they have not transferred and/or assigned and/or mortgaged the said land and/or any part thereof to any lenders (financial institutions/Bank) for which it has to take the permission of the Government and that they have mortgaged and offered security the various units in the said building on the said land to different lender (banks/ financial institutions) towards repayment of the loans/facilities availed by them and not the said land. The said Respondent No.1 further states that in addition it is submitted that as provided under Schedule "A" of the GR No.Jamin 2000/CR



135/J-1 dated 27.02.2009 at item no. I, it is made mandatory on part of the Lenders (Banks/FIs) to whom the structure was mortgaged, in this case the said Banks (here the DENA Bank and Allahabad Bank Respondent No.2 and 3 herein) to approach the Hon'ble District Collector submitting details like estimated value of the property the\* lenders needed to auction for the recoveries of sum of loan/ borrowings outstanding to be recovered ere by them respectively from the said Respondent No. 1 and they should have obtained prior permission from the Collector for the proposed auction which they seem to have deliberately failed and neglected with an intention to defraud the State Exchequer of their rightful revenue. In the present case, DENA Bank und Allahabad Bank (Respondents 2 and 3) respectively have failed to comply with both these mandatory obligations on their part and have auctioned the respective units at a meager value without payment of unearned income amounts and other outstanding respectively to the Government. The said Respondent further states that in any case if the DENA Bank and Allahabad Bank Le. Respondent no.2 and 3 refuses to pay or does not pay the sum of unearned amount due to the State Government then as provided in clause 11(1) of the lease agreement 17.



214

17. "the lessee hereby for themselves, their successors, respective heir, executors, administrators and permitted assigns covenants with the lessor the following."

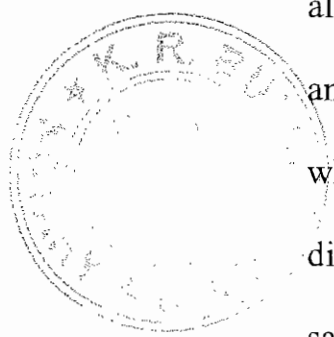
(i) During the said term hereby granted to duly pay the lessor the said rent at the time and on the day. To duly pay all the existing and future taxes, rates, charges, assessment and outgoing of every description for the time being payable by either by the lessee or by the occupier in respect of the demised premises and any things for the time being thereon."

18. In this case, since the DENA Bank and Allahabad Bank i.e. Respondent no.2 and 3 have stepped into the shoes of the said Respondent no. 1, in the absence of the DENA Bank and Allahabad Bank e. Respondent no.2 and 3 not paying the rent, it is the owner/possessor of the auctioned purchaser has to pay all the due amount to the Government. It is also requested to be taken cognizance of the fact that DENA Bank and Allahabad Bank i.e. Respondent no.2 and 3 have breached of above referred existing provisions and violated laid down procedure to be followed before selling the respective units/property by auction in much lower price than the prevailing market price and said Respondent no.1 further most vehemently submits that the DENA Bank and Allahabad



Bank i.e. Respondents no.2 and 3 in connivance with the M/s Midday Infomedia (Respondent No. 4). M/s VRSM Enterprises LLP (Respondent No.5) and M/s Music Broadcast Ltd (Respondent No. 6 have malafidely with ulterior motives and for personal unlawful gains respectively have completed transaction of sale of the respective units in order to defraud the State Exchequer and have committed fraud upon the State as well caused huge financial loss to Respondent No.1 as the residual post adjustment of the outstanding loan amounts would be the entitlement of Respondent No. 1

19. The Respondent No.1 hereby submits that part attachment of units the said Respondent no.2 and 3 respectively tried to auction sale the units (under reference/subject matter), however, Respondent no.1 challenged the valuation of the said units by Respondent no.2 Bank and Respondent no.1 conducted valuation of the said units from an independent valuer and Respondent no. 1 also challenged the valuation in Debt Recovery Tribunal, Mumbai and the Debt Recovery Mumbai appointed an independent valuer who has aslo given the valuation report, however the said bank disregarding the DRT- Mumbai valuation have auctrioned /sold the said units to Respondent Nos. 4,5 and 6 respectively. However,



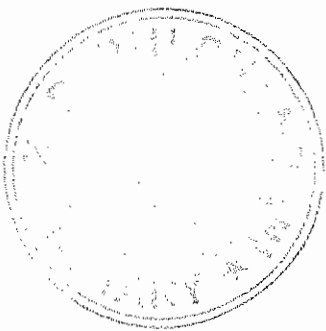


Respondent No.1 have also challenged the auction sale in the Hon'ble Bombay High Court and the same is pending.

20. The balance of Convenience is in favour of the said Respondent No.1, and gave irreparable loss and harm shall be caused to the said Respondent No.1 in the event the prayers as below are not granted. Therefore, the said Respondent No.1, MOST humbly prays that:

i. Since they have not violated and/or committed breach of the terms and conditions of the said Lease Agreement dated 5 December, 2005 and other GRs etc as set forth in the said notice the Hon'ble Collector may be pleased to withdraw and/or dispose of the show cause and the contentions/issues raised in the said notice and further not to impose any penalty in respect of "Construction to be completed in stipulated time" as the said Respondent No.1 as explained hereinabove have completed the construction of the said building on the said land in stipulated time.

ii. to order/declare the transfer of the said auctioned property under question as NUL and VOID as the Bank had not only committed serious breach but also caused huge loss of revenue



to the State Exchequer by undervaluation and not seeking permission for sale/transfer of their respective units.

The say submitted by M/S Midday Info Media Ltd., M/s Music Broadcast Ltd., M.V.R.S.M. Enterprises LLP.

We, M/s Midday Infomedia Ltd. M/s Music Broadcast Ltd and M/s VRSM Enterprises LLP would like to make following Submissions:

1) The RNA Corporate Park Building, which is situated at Off. Western Express Highway, Kalanagar, Bandra (East), Mumbai 400051 constructed on the land owned by collector and which consist of 8 storied structure.

2) The three companies purchased premises in the said building in the month of March, 2019 i.e. M/s Midday infomedia Ltd purchased entire 6th floor premises from Dena Bank (now Bank of Baroda) and basement from Allahabad Bank, M/s Music broadcast Ltd., purchased 5<sup>th</sup> floor unit No B & C and basement and VRSM Enterprises LLP purchased 3<sup>rd</sup> floor unit no B&C from Dena Bank (Now it's Bank Of Baroda W.e.f.01/04/2019) through E-Auction tender notice and we got the Sale Certificate/Agreement registered on 18th March 2019 for M/s Music Broadcast Ltd (5th floor) and VRSM bob. 7/4/2022 Enterprises LLP (3<sup>rd</sup>floor), and on 19 March,

2019 for M/s Midday Infomedia Ltd (6<sup>th</sup> floor) and on 31<sup>st</sup> March, 2019 registered basement area of M/s Midday Infomedia Ltd.

3) Prior to purchase of said premises M/s Midday Infomedia Ltd, M/s Jagran Prakashan Ltd, and M/s Music Broadcast Ltd., were occupying the said premises on Leave and License basis from Maharashtra Theater Pvt. Ltd. (herein after referred to as MTPL") M/s Midday Infomedia Ltd, M/s Jagran Prakashan Ltd and M/s Music Broadcast Ltd were occupying 4<sup>th</sup> floor, 3<sup>rd</sup> floor and 5<sup>th</sup> floor respectively and were making timely timely rental payment compensation to banks escrow account.

4) In the year October 2018, Dena Bank initiated action under "SARFESAI ACT" and took paper /symbolic possession of the said premises when the entire office and business activities of the above mentioned three companies were in operation from the said three floors Le Publishing and Broadcasting activities and therefore we were left with no option but to purchase the said premises on war footing basis.

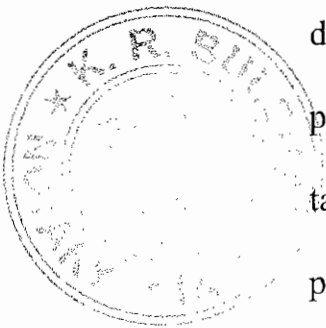
5) Accordingly, in March 2019 M/s Midday Infomedia Ltd, M/s Music Broadcast Ltd and VRSM Enterprises LLP purchased premises from Dena Bank (Now known as Bank Of Baroda) &



Allahabad Bank a nationalized Bank through E-Auction process. It is pertinent to note that Dena Bank/Allahabad bank at the time of sale proceedings neither took required permission or NOC from concerned authorities nor informed us that the said land was owned by collector/government. They purposely withheld information of collector land payout while they would have gone through this procedure when MTPL mortgaged their premises to the bank. Also please note, Dena bank have updated in their E-auction notice outstanding details of MCGM property tax however there was no mention of outstanding payout to collector/government.

6) After the sale proceedings our Bankers asked us to procure collector's NOC and accordingly we approach collector office by our letter dated 28th June, 2019.

7) It is pertinent to note that when we approached collector office by our letter dated 28th June, 2019 collector office issued notice dated 19<sup>th</sup> August, 2019 which states that before mortgaging any premises of RNA Corporate Park building, MTPL was supposed to take prior permission of this office and even before the sale proceedings were completed by Dena Bank/ Allahabad bank through E-Auction, the Bank was, required to seek permission from the Collector/government. However on both the occasions



220

MTPL and Dena Bank /Allahabad Bank violated the clause of Government Resolution and thereby deprived the Government/collector from getting the unearned income for which the state government has lost its revenue. The collector therefore issued notices to the concerned parties along with M/s Midday Infomedia Ltd, M/s Music Broadcast Ltd. and VRSM Enterprises LLP and directed the concerned parties to remain present along with their respective representatives.

8) In view of the above M/s midday Infomedia Ltd, M/s Music Broadcast Ltd and VRSM Enterprises LLP who purchased entire 6th floor premises. 5 floor Unit No.B and C, and 3<sup>rd</sup> floor, Unit No B & C and also Basement area admeasuring 1000 square feet from Allahabad Bank, through E-Auction would like to make following

Submission:

WITHOUT PREJUDICE to the rights and contentions of M/s Midday Infomedia Ltd, M/s Music Broadcast Ltd, and VRSM enterprises LLP, to recover the amount from Bank of Baroda/ Allahabad Bank. We are ready to deposit the collector's/government's legal fees from March 2019 onwards i.e. from the date of Sale proceedings / date of purchase Subject to polarizing the premises Le issuing us No Objection Certificate



NOC) situated at RNA Corporate Park Building i.e. Entire 6 floor remises 5th floor, Unit No B and C. 3rd floor Unit No B and C and Basement area.

Lastly M/s Midday Infomedia Ltd. M/s Music Broadcast Ltd and VRSM Enterprises LLP submit that they have filed their respective written statements on 20 January, 2021 to the notice issued by collector we reiterate and confirm whatever stated in nose written statements.

#### **Submission of Dena Bank (now Bank of Baroda)**

#### **AFFIDAVIT IN REPLY ON BEHALF OF THE NOTICEE**

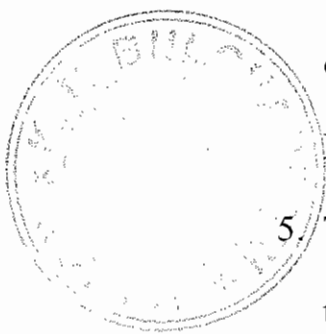
1. We are in receipt of your notice dated 22<sup>nd</sup> February 2021 (the "said Notice"). At the outset, we say that the said Notice without jurisdiction, illegal and bad in law. We reserve our rights and contentions in this regard. We also reserve our right to file a detailed reply on merits Nothing contained in the said Notice should be deemed to be admitted for want of travers.
2. At the outset, we submit that the present reply is in addition to our reply dated 17 March 2020 to the Show Cause Ni dated 7 December 2019.



3. We once again repeat and reiterate that the steps taken by the Bank in respect of the 3<sup>rd</sup>, 5th and 6 Floor of the property situated at S.No. 341A of village Bandra, Tal-Andheri, admeasuring area - 4515 sq mtrs. (the said "Subject Property") are in accordance with the applicable law.

4. By a Lease Agreement dated 3 December 2005, the Government of Maharashtra leased the subject Property to M/s Maharashtra Theatre Pvt. Ltd., (ATPI) Thereafter, MTT availed certain credit faces from the Notice and and mortgaged the subject property to the Notice to secure the (repayment thereof, but due to irregular and non-repayment of the credit facilities by the Borrower, a part of the subject Property was sold in favors of the auction purchaser.

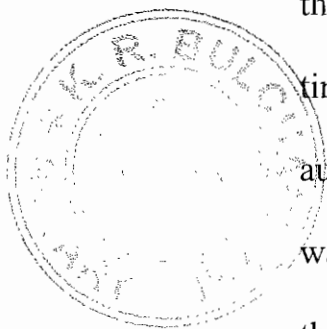
5. The Notice submits that the mortgage was created in favor of the bank, which is a registered mortgage. The subject property was registered in the year 2012, 2013 and 2014 and thus acts as constructive notice to public including the authority issuing the notice government During this intermittent period until December 2019, the movement remained silent without raising any objections, waking up and raising ives are with ulterior motives.



6. Thereafter, government issued a show cause notice dated December 07, 2019 for recovery of unearned income from sale the demised land. Thereafter, the Noticee sought certain documents from the concerned department and filed its reply date 17 March 2020. It is important to point out that, upon receiving the abovementioned reply, government has issued the present SCN dated 22nd February 2121 now claiming 'transfer fee for a sum of Rs. 5,04,11,501/- from the Noticee. We submit that the present SCN has been issued with an ulterior motive and is nothing but Jan afterthought to harass the Noticee.

7. The Noticee further submits that, the bank took physical possession of the subject property on October 6, 2018 and the same was published in two leading newspapers. Multiple times auction was attempted by this bank through public auction an auction notice was published in newspaper. There was no objection from the side of the Government against the possession notice or auction notice.

8. We also submit that this present SCN dated 22 February 2021 has been issued at a belated stage and the issuing





authority has failed to set out any cogent reasons for issuing the notice after efflux of time.

9. The Notice states that as per the Lease Agreement dated 5 December 2005, there was no obligation on the Notice to inform your office about the creation of mortgage. The obligation, if any, was that of MTPL to inform the name of the financial institution to which the subject Property was mortgaged to your office which position is reiterated in your notice dated 29 August 2019 issued to MTPL and also in the said Notice.

10. We submit that, S.37A of the Maharashtra Land Revenue Code, 1966 reads as follows

**37A. Restrictions on sale, transfer, redevelopment, change of use, etc., in relation to Government land and nazul land**

1) Every sale, transfer, redevelopment, use of additional Floor Spur Index (FSD), transfer of Transferable Development Rights (TDR) or change of use of any Government land in Amravti and Nagpur Revenue Divisions including the Mumbai City and Revenue Divisions in the State, which is granted for various purposes under the provisions of this Code or rules made thereunder or any law relating to land revenue, before the



commencement of this Code including the nazul lands in Amravati and Nagar Revenue Divisions shall be subject to taking the prior permission of the State Government.

The State Government all while granting such permission as required under sub-section (1) recover such premium or charge and share of unearned income subject to such terms and conditions as may be specified, by general or special order, issued by the Government, from time to time:

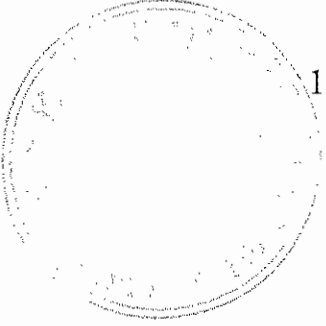
**Provided that**, if the provisions of this section or of any such orders issued thereunder are inconsistent with the terms conditions of the order of land grant or the lease deed executed prior to the commencement of Maharashtra Land Revenue Code (Second Amendment) Act, 2012, the terms and conditions of such order of land grant or lease deed shall prevail:

**Provided further that**, in case of the nazul tails in Amravati and Nagpur Revenue Divisions, the provisions of sub-section (1) shall not be applicable with retrospective effect (Emphasis Added).

11. A bare perusal of the abovementioned section clearly indicates that the for every sale, transfer, redevelopment use of additional Floor Space Index (FSI), transfer of

226

Transferable Development Rights (TDR) or change of use of any Government and, a prior permission of the state government shall be obtained. However, it is important to highlight that the pen to section (2) itself clarifies that, if there is an inconsistency in the provisions of Section 37A or of any such orders issued there under with the terms and conditions of the order of land grant or the lease deed executed prior to the commencement of Maharashtra Land Revenue Code (Second Amendment) Act, 2012, which has come into effect on 03.03.2015), the terms and conditions of the lease deed shall prevail.



12. The abovementioned Lease Agreement dated 05 December 2005 clearly stipulates that the lessor i.e. MTPL should have obtained necessary permission from the government of Maharashtra. Applying the aforementioned principle that since terms of the lease agreement would prevail over S37A, we submit that it was the lessor i.e. MTPL, who should have obtained the requisite approvals.

13. Without prejudice to the above, we submit that upon taking possession of the subject property, a secured creditor i.e. the noticee merely gets a right to sell the subject property on

behalf of the debtor i.e. MTPL and any sale made by the secured creditor should be deemed to be a sale made by the debtor i.e. MTPL in the present matter.

14. In light of the above, we submit that the transfer fee, if any cannot be recovered from the Noticee bank. We submit that, it shall primarily be recovered from MTPL. since, the subject property has been transferred from MTPL in the auction purchasers. The bank merely acts as a custodian and the subject property has never transferred to the Bank and therefore the bank cannot be held liable for payment of the transfer fees.

15. Alternatively, we submit that this transfer fees may be recovered from transferee i.e. auction purchasers. However, at the sake of repetition, we submit that a bank cannot be held liable for any transfer of the subject property.

16. The Noticee reserves its right to file additional affidavits/replies as may be required in the course of the proceedings.

17. Under the circumstances and for the reasons set out hereinabove, it is prayed that the said Notice be dropped as against the Noticee.

228

### **Submission of Indian Bank**

Reply to Notice dated 01.04.2022 filed on behalf of Allahabad Bank now merged with Indian Bank.

1. I Shri. Sudhanshu Munshi, Asst. General Manager, having address at Office No. 73, 7<sup>th</sup>Floor, Mittal Chambers, Nariman Point

21. I am well conversant facts of the facts of the matter and able to depose the same on the basis of the records maintained by Noticee no.3.

2. I say that the Government of India issued the notification No. GSR 156 (E) dated 04/03/2020 as Amalgamation Scheme. As per the said notification and Amalgamation Scheme, Allahabad Bank was amalgamated into Indian Bank with effect from 01.04.2020,

3. I further say that the Noticee no.3 received the Notice dated 01.04.2022 issued by the Hon'ble District Collector's Officer, Bandra wherein the said notices is called upon to give their reply/submission to the said Notice. The present reply is filed through the POA holder Shri. Sudhanshu Munshi, who is conversant and well aware about the facts and offer the reply on the basis of the record maintained by Noticee no.3.

4. I further say that on or about Noticee no.1 approached the Noticee no.3 requesting to grant Term Loan Rs.55.00 Crores. The notice no.3

considered request of noticee no. 1 and sanctioned Term Loan Rs.55.00 Crores on the terms conditions mentioned sanction letter dated 22.01.2013.

5. I further say that in order to secure the said Term Loan noticee no.1 executed various documents including following security documents favour of Noticee no.3 which are under:

a) Term Loan Agreement dated 30.01.2013 executed between RNA Corp Pvt Ltd Maharashtra Theatres Private Ltd Allahabad Bank for a sum Rs.55.00 Crores

b) Amendatory Restated Agreement to Term dated 30.01.2013.

c) Indenture Mortgage dated 31.01.2013 entered into between RNA Corp Pvt Ltd, Maharashtra Theatres Pvt Ltd and Allahabad Bank duly registered with Sub Registrar, Andheri I vide Document no.1282/2013.

d) Indenture Mortgage dated 09.03.2013 entered between RNA Corp Pvt Maharashtra Theatres Pvt Ltd and Allahabad Bank registered with Sub Registrar, Andheri vide Document no.2579/2013.

6. I further say that in order to further secure the Term Loan facility Rs.55.00 Crores, Collateral Security (Indenture Mortgage) dated 09.03.2013 was executed between RNA Corp Pvt Ltd, Maharashtra Theatres Pvt Ltd and Allahabad Bank, whereby noticee no.1 created



230

the mortgage commercial premises in Commercial Building at RNA Corporate Office, 2<sup>nd</sup> floor area 5967 sqfts. Carpet area to 8950 sq. super built up area in the building as RNA Corporate Park constructed on all pieces and parcel of admeasuring 4515 sqmtrs bearing Cadastral Survey no.341 A no.629/1252 of Govt. Maharashtra, Andheri.

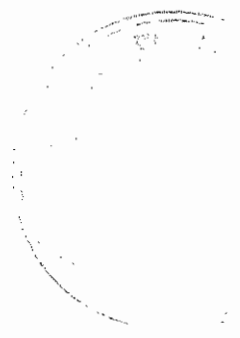
7. As per the Lease Agreement dated 05.12.2005 which was executed between The Government of Maharashtra as a Lessor and Maharashtra Theatres Pvt Ltd, the lessee, whereby the Government of Maharashtra granted the lease period of 99 years for construction of Cinema Theatres us per para (c) in page no.2 of Lease Agreement. As per the lease Agreement the lessee is permitted to mortgage the lease hold rights or part thereof with Banks or Financial Institutions as mentioned in paragraph no.2 in Page no.6.

8. I say that since the noticee no. 1 defaulted in repayment of Term Loan sanctioned to them, therefore the noticee no.3 declared the account as Non- Performing Assets on 31.03.2016 as per the RBI guidelines. Therefore the noticee no.3 initiated measures under SARFEASI Act 2002 and issued 13(2) Demand notice through the Authorized Officer. Since the noticee no. 1 failed to repay the amount demanded within the stipulated period, the noticee no.3

proceeded and sold the said mortgaged property for a sum of Rs.1,28,00,000/- in favour of noticee no.4 by confirming the Sale. The notices no.3 issued Sale Certificate date 29.03.2019 in favour of M/s. Mid Day Informedia Ltd and also handed over the physical possession to the Auction purchaser.

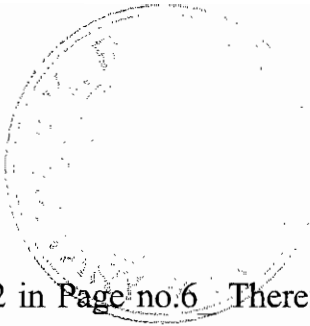
9. It is therefore submitted as per the security documents executed by noticee no.1 in favour of noticee no.3, as per the mortgaged created by the noticee no.1 in respect of the mortgaged properties and as per the Lease Agreement in paragraph no.2, the noticee no.3 proceeded against the mortgaged properties and sold under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 in order to recover the legitimate outstanding dues sanctioned to noticee no. 1.

10. With reference to your notice it is admitted fact that the State of Maharashtra had executed lease Agreement dated 05.12.2005, The Government of Maharashtra as a Lessor and Maharashtra Theatres Pvt Ltd, the lessee, whereby the Government of Maharashtra granted the lease period of 99 years for construction of Cinema Theatres as per pain (c) in page no.2 of Lease Agreement. As per the lease Agreement the lessee is permitted to mortgage the lease hold rights or part thereof with Banks or Financial





232



Institutions as mentioned in paragraph no.2 in Page no.6. Therefore the leasee was abide by the terms and conditions mentioned in the lease Agreement and the same is binding upon both the parties ie. Government of Maharashtra being the lessor and Maharashtra Theatres FYI Ltd being the Lessee. If there is any violation of either of the party they should approach the appropriate authority, in case of default of payment of rent of the lessor through the Collector shall issue a notice. I say that we have not come across such notice before taking any action against the lease.

11. I say and submit that the subject property is the entire structure situated at Village Bandra Taluka Andheri Survey no.341 A. It is pertinent to mention herein that now the structure is converted into building and the noticee no.3 has mortgage rights over Viz:(a) Basement Area :Kiln 1000 sq. fts, carpet Area (h) 4 Door admeasuring 13132 sqlls. Carpet area and (e) 5th Floor admeasuring 2680 sq. Its, carpet area (d) 2nd Floor admeasuring area 5967 sq.ft all in the building known as RNA Corporate Park" constructed on all that pieces and parcel of land bearing Survey no.341 A & CTS No.629/1252 of the Govt of Maharashtra & Cadastral Survey no.341 A, lying being and situate at Village Bandra, Taluka Andheri. It is not disputed that our portion of subject property is mortgaged

by the lesee through Registered Mortgage which is registered with Sub Registrar's Office, Andheri vide document no, 1475 dated 31.01.2013.

12. With reference to your notice, it is stated that the noticee no.1 had violated the order and permission of your office. Such as construction is not completed within stipulated period, the lease rent not paid. We do not find any record at that your good office has taken any action against noticee no.1 during that period, and when the property is sold, your good office has issued the said notice when the noticee no.3 has completed the sale procedure by issuance of Sale certificate. Handing over the physical possession of secured assets and registration of Sale certificate with the sub registrar office, therefore the notice issued by your good office is not sustainable and the same is liable to be set aside and quashed.

13. I further say and submit that regarding the violation of the terms and conditions mentioned in the Lease agreement is between the lessor and lesee and the noticee no.3 is not a party to the said agreement and therefore the same is not applicable against the noticee no.3.

14. I further say that the notice issued by your good self is not clear and specific against noticee no.3, the said notice issued to notice no.1

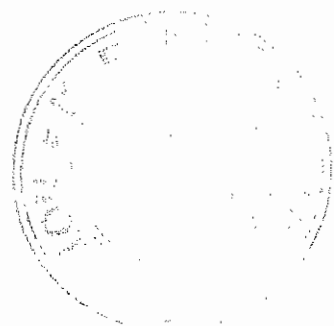
234

to 6 which is common and therefore the same is liable to be quashed and set aside.

15.1 further say that since the measures taken by the noticee nn.3 against secured assets is not challenged by any of the aggrieved party including your good self in the court of law. Therefore the action taken by noticee no.3 against the secured assets has attained finality.

16. I further say that if any rent/penalty is required to be paid in respect of the subject property has to be payable by the noticee no.4 who has purchased the secured assets from the notice no.3 is on "As is where is what is basis". I have gone through the reply filed by noticee no.4, wherein it is stated that they are ready to deposit the collector/government office pending dues from March 2019 onwards, which is not sustainable in law. It is pertinent to note that the property purchased in the public auction is always subject to the encumbrance payable by the auction purchaser and subject to the terms and conditions mentioned in the sale notice.

17. I further say that as per the records available with noticee no.3, the present reply is filed and we reserve our right to file additional Affidavit and documents in order to decide the present subject matter.

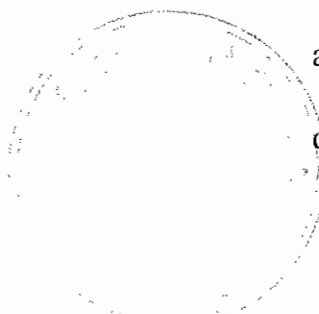


18. I further say that noticee no. 1 has availed the Term Loan for a sum of Rs.55.00 Crores and in order secure the aforesaid loan which was sanctioned on 2.01.2013, the noticee no.1 has created mortgage in favour of noticee no.1

19. I further say that since the noticee no.1 defaulted in repayment of Term Loan sanctioned to them, the noticee no.3 declared account as Non-Performing Assets on 31.03.2016 as per the RBI guidelines. Therefore the noticee no.3 initiated measures under SARFEAS1 Act 2002 and issued 13(2) Demand notice dated 16/05/2016 for a sum of Rs. 42,87,83,066.00 through the Authorized Officer. Since the noticee no.1 failed to repay the amount demanded within the 60 days period, the noticee no.3 further against the secured property.

20. I further say that since disbursement of loan property was the only security available with the noticee no.3 and therefore the noticee no.3 through the Authorised Officer has filed an Application under section 14 of SARFEASI Act 2002 before the hon'ble CMM Court being Case No. 240/W2037.

21. I further say that the Hon'ble CMM after verifying all the security documents including the mortgaged documents has allowed application under section 14 of SARFEASI Art 2002 side order dated 08/01/7018 in Case No. 240/SA/2017 directing the Court

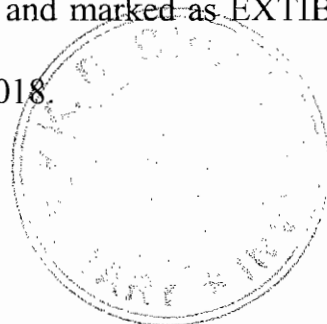


Commissioner to take the physical possession of the secured assets and handover the same to the Authorized Officer.

22.1 further say that pursuant to notice u/s 13(2) the Authorized Officer of Bank took symbolic possession of the secured property was taken i on 18/08/2016 and the notice to that effect was published in two local newspaper ie. Navshakti & Free press Journal dated 20/08/2016. In spite of publication of possession notice in the 2 local daily newspapers as stated herein above, the noticee no.3 has not received any objections either by the borrower/mortgagor/ noticee no.1 or from your goodself.

23.1 further say that since we have not received any notice/objections from any aggrieved parties, therefore the noticee no.3 has issued E Auction sale notice and the secured property i.e. Basement area admeasuring 1000 sq.ft, carpet area was sold to the highest bidder i.e. noticee no.4 for a sum of its. 1,28,00,000/-.

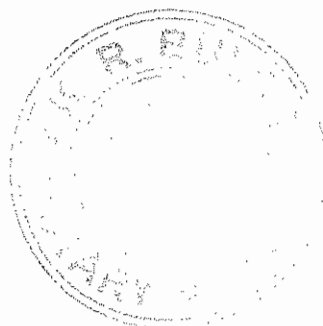
24.1 further say that pursuant to the order dated 12/10/2018 of the Hon'ble High Court passed in WP (L) No. 25042018, the physical possession of the secured assets i.e. Basement, 4th and 3 Floor was taken on 22/10/2018. Hereto annexed and marked as EXTIBIT-"E" is the Copy of the Order dated 12/10/2018.



25. The physical possession of the property at 2nd floor was taken on 24/07/2018 by the Authorized Officer of Bank and to this effect Panchnama prepared. Hereto annexed and marked as EXHBIT-"F" is the Copy of the Panchnama dated 24/07P018.

26. The Sale was confirmed in favour of noticee no.4. After receipt of the sale proceeds, the noticee no.3 issued Sale Certificate dated 29.03.2019 in favour of M/s. Mid Day Informedia Ltd i.e. noticee no.4 of IND and also handed over the physical possession of the secured assets to noticee no.4.

27. It is pertinent to mention herein that, noticee no.3 has sold the property wider SARFEASI Act 2002 after completing all the measures/provisions under the sections and rules made therein, therefore the auction conducted by the noticee no.3 is valid in the eye of law. It is relevant hereto mention herein that being the secured creditor, the noticee no.3 has rightly sold the property to recover the public money and the physical possession of the secured assets were taken by the noticee no.3 pursuant to the order dated 08/01/2018 passed in Case No. 240/SA/2017 of Hon'ble CMM. The provision of the SARFEASI



238

override all the other law for the time being in force and if any party are aggrieved by the action taken by the secured creditor should approach the appropriate authority.

28. In the above said circumstances, it is therefore humbly prayed that the notice dated 01.04.2022 be withdrawn against this noticee no.3.

### **Submission of Allahabad Bank**

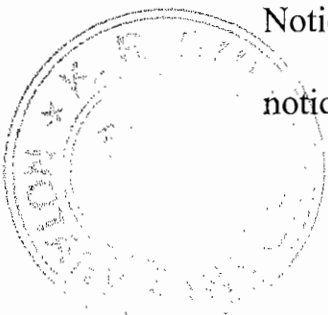
Written Submission filed on behalf of Allahabad Bank now merged with Indian Bank to the Notice dated 01.04.2022

1. The Noticee no.3 is Banking company having branch office at No. 13, 7<sup>th</sup> Floor Mittal Chambers, Nariman Point, Mumbai 400 021.

2) The Noticee no.3 submits that they had received the Notice dated 01.04.2022 from the Hon'ble District Collector's Officer, Bandra, wherein the said noticee is called upon to give their reply/submission to the said Notice.

3) The Noticee no.3 has filed the Reply to the said Notice on 13.05.2022, this noticee crave leave to refer and rely upon the statements and exhibits filed alongwith the said reply.

4) The Noticee no.3 submits that noticee no.1 approached the Noticee no.3 requesting to grant Term Loan of Rs.55.00 Crores. The noticee no.3 considered the request of noticee no.1 and has



sanctioned Term Loan of Rs.55.00 Crores on the terms and conditions mentioned in sanction letter dated 22.01.2013.

5) The Noticee no.3 further submits that in order to secure the said Term Loan the noticee no.1 has executed various documents including the following security documents in favour of Noticee no.3, which are as under:

(a) Term Loan Agreement dated 30.01.2013 executed between RNA Corp Pvt Ltd and Maharashtra Theatres Private Ltd., Allahabad Bank for a sum of Rs.55.00 Crores.

(b) Amendatory and Restated Agreement to Term Loan dated 30.01.2013.

(c) Indenture of Mortgage dated 31.01.2013 entered into between RNA Corp Pvt Ltd, Maharashtra Theatres Pvt Ltd and Allahabad Bank duly registered with Sub Registrar, Andheri vide Document no.1282/2013.

(d) Indenture of Mortgage dated 09.03.2013 entered into between RNA Corp Pvt Ltd, Maharashtra Theatres Pvt Ltd and Allahabad Bank duly registered with Sub Registrar. Andhcri I vide Document no.2579/2013.

6) The Noticee no.3 submits that in order to further secure the Term Loan facility of Rs.55.00 Crones, the Collateral Security (Indenture





240

of Mortgage) dated 09.03.2013 was executed between RNA Corp Pvt Ltd, Maharashtra Theatres Pvt Ltd and Allahabad Bank, whereby the noticee no.1, created the mortgage of commercial premises in the Commercial Building at RNA Corporate Office, 2nd floor area 5967 sqmtrs. Carpet area to 8950 sqmtrs super built up area in the building as RNA Corporate Park constructed on all that pieces and parcel of land admeasuring 4515 sqmtrs bearing (Cadastral Survey no.34) A & CTS no.629/1252 of Govt. of Maharashtra, Andheri.

7) The Noticee no.3 submits that as per the Lease Agreement dated 05.12.2005 which was executed between The Government of Maharashtra as a Lessor and Maharashtra Theatres Pvt Ltd, the lease, whereby the Government of Maharashtra granted the lease period of 99 years for construction of Cinema Theatres as per pars (c) in page no.2 of Lease Agreement. As per the lease Agreement the lessee is permitted to mortgage the lease hold rights or part thereof with Banks or Financial Institutions as mentioned in paragraph no.2 in Page no.6.

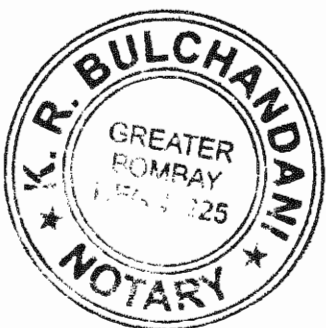
8) The Noticee no.3 submits that since the noticee no.1 defaulted in repayment of Term Loan sanctioned to them, therefore the noticee no.3 declared the account as Non-Performing Assets on 31.03.2016 as per the RBI guidelines. Therefore the noticee no.3 initiated



measures under SARFEAS1 Act 2002 and issued 13(2) Demand notice through the Authorized Officer. Since the noticee no.1 failed to repay the amount demanded within the stipulated period, the noticee no.3 proceeded and sold the said mortgaged property for a sum of Rs. 1.28,00,000/- in favour of noticee no.4 by confirming the Sale. The noticee no.3 issued Sale Certificate dated 29.03.2019 in favour of M/s. Mid Day Informedia Ltd and also handed over the physical possession to the Auction purchaser.

9) The Noticee no.3 submits that as per the security documents executed by noticee no. 1 in favour of noticee no.3, as per the mortgage created by the noticee no.1 in respect of the mortgaged properties and as per the Lease Agreement in paragraph no.2, the noticee no.3 proceeded against the mortgaged properties and sold under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 in order to recover the legitimate outstanding dues of credit facilities sanctioned to noticee no.1.

10) The Notice no.3 states that it is admitted fact that the State of Maharashtra had executed Lease Agreement dated 05.12.2005, The Government of Maharashtra as a Lessor and Maharashtra Theatres Pvt. Ltd, the Lessee, whereby the Government of Maharashtra



242

granted the lease period of 99 years for construction of Cinema Theatres as per para (c) in page no.2 of Lease Agreement. As per the lease Agreement the lessee is permitted to mortgage the lease hold rights or part thereof with Banks or Financial Institutions as mentioned in paragraph no.2 in Page no. 6. Therefore, the Lessee was supposed to abide by the terms and conditions mentioned in the lease Agreement and the same is binding upon both the parties i.e. Government of Maharashtra being the Lessor and Maharashtra Theatres Pvt. Ltd being the Lessee, if there is any violation of either of the party they should approach the appropriate authority, in case of default of payment of rent of the lessor through the Collector shall issue a notice. The Notice no.3 has not come across such notice before taking any action against the lease.

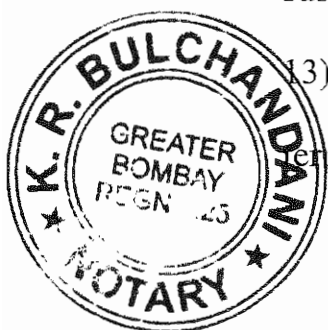
11) The Notice no.3 submits that the subject property is the entire structure situated at Village Bandra, Taluka Andheri, survey no.341A .It is pertinent to mention herein that now the structure is to converted into building and the notice no.3 has mortgage rights over Viz:(a) Basement Area adm. 1000 sq. fts, carpet Area (b) 4<sup>th</sup> floor admag 13132 sts Carpet area and (e) Sa Floor admeasuring 2680 sq.fts, carpet area (d) 2nd Floor admeasuring area 5967 sq ft. all in the building known as RNA Corporate Park" constructed on



all that pieces and parcel of land bearing Survey no.341A & CTS No.629/1252 of the Govt. of Maharashtra & Cadastral Survey No.341 A, lying being and situate at Village Bandra, Taluka Andheri. It is not disputed that our portion of subject property is mortgaged by the lesee through Registered Mortgage which is registered with Sub Registrar's Office, Andheri vide document no, 1475 dated 31.01.2013.

12) The Noticee no.3 submits that the noticee no.1 had violated the order and permission of this Hon'ble District Collector's office. Such as construction is not completed within stipulated period, the lease rent not paid. This Noticee do not find any record at that this Hon'ble Collector's Office has taken any action against noticee no.1 during the said period, and when the property is sold this Hon'ble District Collector's office has issued the said notice when the noticee no.3 has completed the procedure by all aspects by issuance of Sale certificate, handing over the physical possession of secured assets and registration of Sale certificate with the sub Registrar office, therefore the notice issued by this Office is not sustainable and the same is liable to be set aside and quashed.

13) The Notices no.3 submits that regarding the violation of the terms and conditions mentioned in the Lease agreement is between



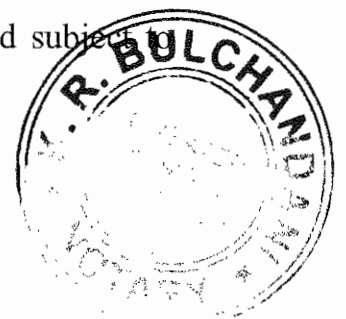
244

the lessor and lessee , the noticee no.3 is not a party to the said agreement and therefore the same is not applicable against the noticee no.3.

14) The Noticee no.3 submits that the notice issued by this Hon'ble District Collector's Office is not clear and specific against Noticee no.3, the said notice issued to notice no.1 to 6 which is common and therefore the same is liable to be quashed and set aside.

15) The Noticee no.3 submits that that since the measures taken by the noticee no.3 against secured assets is not challenged by any of the aggrieved party including this Hon'ble District Collector's Office in the court of law, therefore the action taken by noticee no.3 against the secured assets has attained finality.

16) The Noticee no.3 submits that if any rent / penalty is required to be paid in respect of the subject property has to be payable by the noticed no.4, who has purchased the secured assets from the noticee no.3 is on "As is where is what is basis" As per the reply filed by the noticee no.4, wherein it is stated that they are ready to deposit the collector/government office. It is pertinent to note that the property purchased in the public auction is always subject to the encumbrance payable by the auction purchaser and subject to the terms and conditions mentioned in the sale notice.

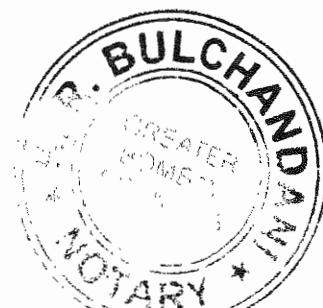


17) The noticee no.3 further submits that as per the records available with noticee no.3, the reply was filed and on the basis of the said reply the noticee no.3 is submitting the Written submission.

18) The noticee no.3 submits that noticee No.1 has availed the Term Loan for a sum of Rs. 55.00 Crores and in order secure the aforesaid loan which was sanctioned on 2.01.2013, the noticee no.1 has created mortgage in favour of noticee no.3.

19) The noticee no.3 submits since the noticee no.1 defaulted in repayment of Term Loan sanctioned to them, the noticee no.3 declared the account as Non Performing Assets on 31.03.2016 as per the RBI guidelines. Therefore the noticee no.3 initiated measures under SARFEASI Act 2002 and issued 13(2) Demand notice dated 16/05/2016 for a sum of Rs.42,87,83,066.00 through the Authorized Officer. Since the noticee no.1 failed to repay the amount demanded within the 60 days period, the noticee no.3 proceeded further against the secured property.

20) The noticee no.3 further submits that since disbursement of loan property was the only security available with the notice no.3 and therefore the notice no.3 through the Authorised Officer has



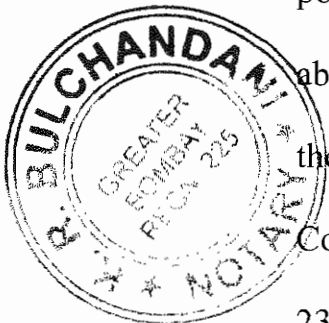
246

filed an Application under section 14 of SARFEASI Act 2002 before Hon'ble CMM Court being Case No. 240/SA/2017.

21) The Noticee no.3 submits that the Hon'ble CMM after verifying all the security documents including the mortgaged documents has allowed the application under section 14 of SARFEASI Act 2002, vide order dated 08/01/2018 in Case No. 240/SA.2017 directing the Court Commissioner to take physical possession of the secured assets and handover the same to the Authorized officer.

22) The Noticee no.3 submits that pursuant to notice u/s 13(2) the Authorized Officer of Bank took symbolic possession of the secured property was taken on 18/08/2016 and the notice to that effect was published in two local news paper i.e. Navshakti & Free press Journal dated 20/08/2016. In spite of publication of possession notice in the 2 local daily newspapers as stated herein above, the noticee no.3 has not received any objections either by the borrower /mortgagor/ notices no.1 nor from this Hon'ble Collector's Office.

23) The Noticee no.3 submits that since we have not received any notice/objections from any aggrieved parties, therefore the noticee no.3 has issued E Auction sale notice and the secured property i.e.



Basement area admeasuring 1000 sq.ft. carpet area was sold to the highest bidder i.e. noticee no.4 for a sum of Rs. 1,28,00,000/-

24) The Noticee no.3 submits that pursuant to the order dated 12/10/2018 of the Hon'ble High Court passed in WP (L)No.2504/2018, the physical possession of the secured assets i.e. Basement, 4th and 5th Floor was taken on 22/10/2018.

25) The physical possession of the property at 2nd floor was taken on 24/07/2018 by the Authorized Officer of Bank and to this effect Panchnama prepared.

26) The Sale was confirmed in favour of noticee no.4. After receipt of the sale proceeds, the noticee no.3 issued Sale Certificate dated 29.03.2019 in favour of M/s. Mid Day Infomedia Ltd i.e. noticee no.4 and also handed over the physical possession of the secured assets to noticee no.4.

27) It is pertinent to mention herein that, noticee no.3 has sold the property under SARFFASI Act 2002 after completing all the measures/provisions under the sections and rules made therein, therefore the auction conducted by the noticee no.3 in vali in the eye of law. It is relevant hereto mention herein that being the secured creditor, the noticee no.3 has rightly sold the property to recover the public money and the physical possession of the





248

secured assets were taken by the notice no.3 pursuant to the order dated 08/01/2018 passed in Case No. 240/SA/2017 of Hon'ble CMM. The provision of the SARFEASI Act 2002 override all the other law for the time being in force and if any party are aggrieved by the action take by the secured creditor should approach the appropriate authority.

28) In the above said circumstances, it is therefore humbly prayed that there is no case or merits made against the noticee no.3, therefore notice dated 01.04.2022 be withdrawn against this noticee no.3.

**Conclusion:-**

Considering the written submissions and oral arguments filed by Maharashtra Theater Pvt. Ltd., M/s Midday Infomedia Ltd., M/s V. R. S. M. Enterprise LLP, M/s Music Broadcast Ltd., Dena Bank (Bank of Baroda) and Allahabad Bank (Indian Bank) as well as the site inspection report of Tahsildar, Andheri, my findings in the present cases are as follows.

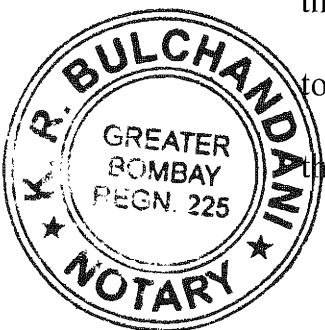


In the hearing held on 08/02/2021 at District collector's office, it was decided to issue a revised notice as per written submissions submitted by Bank of Baroda. According to it, on dated 22/02/2021, the Collector's Office issued to the concerned as per

the provisions in the government decision 25/05/2017 and 04/05/2018 and vide the said notice the transfer amount was communicated to Dena Bank (now Bank of Baroda)bank . However, since the auction proceedings in the case have been completed by the bank, it was not possible to proceed as per the government decision dated 25/05/2017 and also the facts found that that vide the letter dated 23/03/2021, the basement area of 1000 Sq. Ft. has been transferred to them from Allahabad vide 30/03/2019, through auction hence the notice was issued to the concerned and thereby hearing was held on 01/04/2022. After hearing, the case was closed for decision on 23/05/2022.

2. The land in Survey No.341A, area - 4515 sq.m. was allotted on 99 years to the Maharashtra Theater Pvt. for cinema theater vide the government Resolution dated 18/06/1969. Pursuant to the order given under Government Resolution / Decision dated 18/06/1969, this office, vide the order dated 11/06/1969, the land in Survey No. 341A, area – 4515 Sq. Mts., situated at Mouje Bandra, Tahsil– Andheri granted to the Maharashtra Theater Pvt. Ltd., for cinema theater on lease of 99 years by assessing amount of Rs. 73,820,25/-

towards annual Lease per, on certain terms and condition. As per the above mentioned granting of land, the possession of the



250

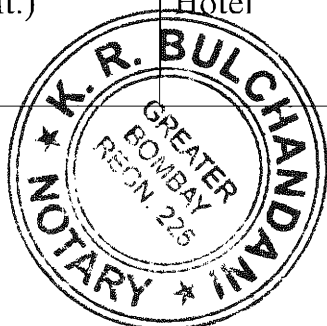
property in question was given to the lessee on 02/01/1970. The construction of M/s Maharashtra Theater was completed in 1974 and the theater started. However, as the number of people coming to watch the movie was very less, the theatre was being run at loss, as per the request made by the Maharashtra Theater seeking extension in time limit of 4 years instead of 2 years for constructing bank and shop in available premise in the Theater when the report was submitted to the government, the government vide the Memorandum dated 09/07/1981 given permission of 0.45% carpet area for Cinema Theatre, 0.15% Carpet area for bank and Shop by assessing 5% lease on the value of the land by the rate of 327/- Sq. Mt. and 0.40% Carpet area for hotel by assessing 8% lease on the prevalent/current market rate of the land. For the said land, the amount of Rs. 1500/- for per square has been fixed by the Assistant Director, Town Planning and Valuation Department and for the same the government has given it's approval vide memorandum dated 16/08/1983 and directed to the District Collector to recover the Lease from Maharashtra Theater Pvt. Ltd., and accordingly the Collector's Office, vide letter dated 28/10/1983, assessed Lease for Maharashtra Theater Pvt. Ltd. as per the following purpose.



F.S.I. (Land ) Sq. Mt.	Purpose	Rate
0.45 (2031.75 Sq.Mt.)	Cinema	Rs.37,071/-Per year
0.15(677.25 Sq.Mt.)	Shops and Banks	Rs.12,357/-per year + 50% amount on the unearned income received through rent.
0.40(1806.00 Sq.Mt.)	Hotel	Rs.2,23,199/-,per annum

Thereafter, on the request made by the Maharashtra Theatre Pvt., Ltd, seeking changes again in the changes in use , vide the government memorandum dated 30/06/1994 , by abiding the provision in the Development Control Regulation, amongst the total Carpet Area that would be permissible on the land under question, the 10% carpet area for Cinema Theatre, 10% carpet area for shops and bank and remaining 80% Carpet area for the hotel was sanctioned by the government on the terms/conditions in the order dated 09/07/1981 and regarding the said land other additional conditions that may deemed to be fit in the view of the District Collector. According to this and vide the letter of the government dated 11/11/1994, for the permissible Carpet area that, the District Collector vide revised order dated 30/11/1994 has assessed Lease as mentioned hereunder.

Area	Purpose	Rate	Lease Rent
3612 (Sq.Mt.) (80%)	Hotel	8% on the full market cost by	Rs.4,44,397/-



Carpet Area)		the rate of Rs. 1500/- Per Sq. Mt.	
903 Sq. Mt. (20% Carpet Area)	Cinema Theatre, Shops and Bank	5% on the full market cost by the rate of Rs. 327/- Per Sq. Mt.	Rs.16,476/- +50% amount of unearned income on the net profit towards additional rent.

3. Thereafter, on request regarding the changes again in in the use made by the Maharashtra Theatre Pvt. Ltd., vide the government memorandum dated 07/11/2001 , by abiding the provision in the Development Control Regulation, amongst the total Carpet Area that would be permissible on the land under question, the 10% carpet area for Cinema Theatre, 10% carpet area for shops and bank and remaining 90% Carpet area for offices was sanctioned by the government on the terms/conditions in the order dated 09/07/1981 and order dated 30/06/1994 and the terms and conditions as mentioned hereunder.

(a) From the date of getting permission as mentioned above the construction should be completed within 2 years and actual use should be started.

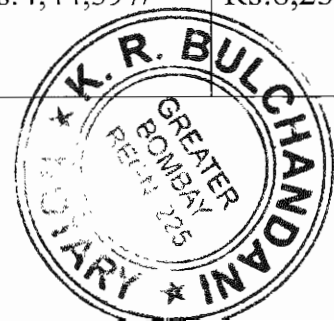


(b) The land under question should be used according to the provisions in the Development Control Regulation and construction lay out should be get sanctioned from the Municipal Corporation.

c) The cinema theatre of 150 capacity should be squared within 10% Carpet Area.

Accordingly, Vide the order dated 12/12/2001, the District Collector office has finally determined the lease rent as mentioned hereunder. In which, for 90% Carpet Area (4063.5 Sq.Mt.) to be used by the Maharashtra Theatre Pvt. Ltd, 50% unearned amount in addition to the lease rent should be paid by the Maharashtra Theatre Pvt. Ltd. As well, the condition that they should pay 50% unearned amount out of the unearned amount that would be received by them (the Maharashtra Theatre Pvt. Ltd.), through the sources i.e. by developing the said plot and by constructing office thereon and Selling, Transferring, Sale to Agreement, Power of Attorney and to create any kind of interest of the any third person on the offices also included.

Purpose	Area	Land Rate	Rate of Lease Rent	Annual Lease Rent
3612 (Sq.Mt.) (80%)	Hotel	8% on the full market cost by the rate of Rs.	Rs.4,44,397/-	Rs.8,238/-

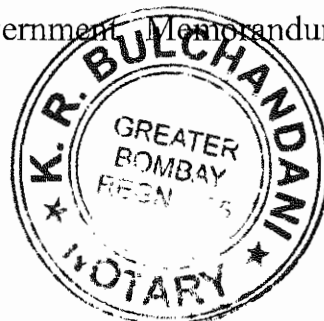


254

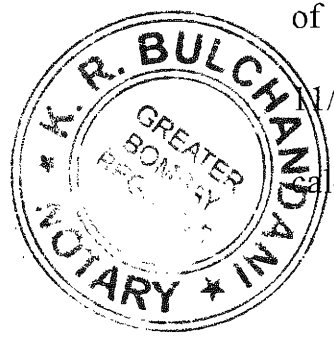
Carpet Area)		1500/- Per Sq. Mt.		
903 Sq. Mt. (20% Carpet Area)	Cinema Theatre, Shops and Bank	5% on the full market cost by the rate of Rs. 327/- Per Sq. Mt.	Rs.16,476/- +50% amount of unearned income on the net profit towards additional rent.	Rs. 74,143/-
Total				Rs. 82,381/-

**4. Extension in time limit for Construction**—Regarding construction on the government land granted on lease under rule 41 of the Maharashtra Land Revenue (Disposals of the Government Land), Rule 1971.

“From the date of getting of the land, within 3 years (or such time limit that may deemed to be fit in view of the District Collector) the allottee shall construct concert and permanent building and failing to do so after giving compensation not exceeding than that of the amount paid by the allottee the said land will be eligible to repossess it. That means after giving the possession of the land on dated 02/01/1970, the construction was expected to be completed within 3 years i.e. by 01/01/1973. However, the lessee requested the Government to change the use of the land from time to time and final vide Government Memorandum dated 07/11/2001,



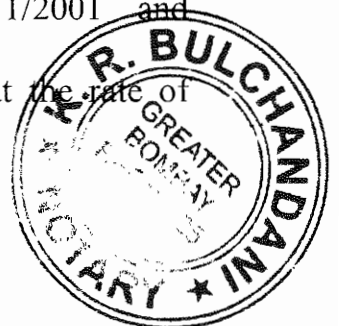
amongst the total FSI, by allowing the use of 10% of the carpet area for cinema theater and 90% of the carpet area for offices, the condition in the said Memorandum has been stipulated that that the actual use should be started within 2 years from the date of granting permission. After that, the Collector Office has granted permission for use on dated 12/12/2001. From the order dated 12/12/2001 of the District Collector, it was required to complete the construction by 19/12/2003 or permission for extension of construction time should be obtained from Collector/Government. However, it appears that the lessee Maharashtra Theater Pvt. Ltd., has been received Full Occupancy Certificate from the Municipal Corporation of greater Mumbai, hence M/s Maharashtra Theater Pvt. Ltd., was informed to pay the amount of Rs.1,07,88,600/- towards extension in time for construction for duration 12/12/2003 to till the completion of construction i.e. 07/07/2006), as per the provision in paragraph (VI) dated 11/01/2017. However, they have not yet deposited the said amount with the government. During the hearing, the lessor has now fixed a new policy regarding extension of construction period, on 01/03/2019. The policy dated 11/01/2017 has been updated. Therefore, it becomes necessary to recalculate the said amount afresh. In the case, the construction has





been already completed before the government decision dated 01/03/2019, hence it requires recovery of premium for extension of construction period as per the provision in the 4 (D) of the Government decision dated 21/11/1957 and not as per the provision of the said policy. For the said reason, as per the 4(d) of government decision dated 21/11/1957, the amount of construction premium for duration i.e.12/12/2003 to the completion of construction (i.e.07/07/2006) is Rs.2,15,77,185/-. It is required to recover the said amount from Lessee Maharashtra Theater Pvt. (Calculation Chart has been attached herewith.)

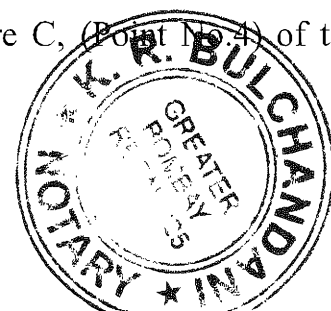
**5. Amount of lease rent and sub-rent amount:-** On observing the report dated 22/06/2022 of Tahsildar, Andheri, the amount of Rs.82,381/-towards annual Lease rent has been paid by the Lessee Maharashtra Theater Pvt. Ltd., till 2021-22. Hence, outstanding amount of lease rent is not reflected. However, Maharashtra Theater Pvt. Ltd.,has paid an amount (lumsun) of annual unearned income till 2014-15 and shown readiness to pay the amount of unearned income determined by the District Collector. As the floor in the building has been given on sub-rent as per the condition No.4 in the Government decision dated 23/11/2001 and 24/08/2004, there is provision to levy license fee at the rate of



12.5% per annum at the rate 750/- per square feet. Accordingly, on 15/02/2008 Maharashtra Theater Pvt. Ltd., has been calculated and submitted to the collector's office. Also the same amount has been paid at Talathi office. As per the information submitted by the Lessee, Maharashtra Theater Pvt. Ltd. vide the said letter said letter:-

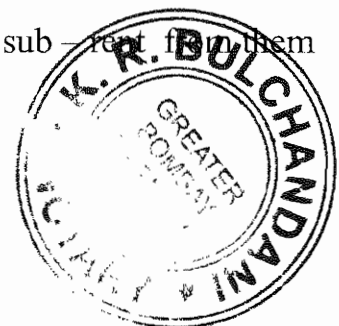
FSI USE	TDR USE	Building Construction	Cinema Use FSI	Part use on Ground Floor FSI	Use on First and Third Floor FSI	Part Use on 3 <sup>rd</sup> floor. FSI	Total FSI
1	2	3	4	5	6	7	8
Ground floor + Part of 3 <sup>rd</sup> floor	Part of the 3 <sup>rd</sup> floor + 8 <sup>th</sup> floor	Ground floor + 8 floors (C.N.1+2)	Part of Ground Floor	Ground floor Part	Per floor 1015.73	3 <sup>rd</sup> floor	Column No. 5+6+7 + Deducting Column No.4
3837.75 Sq.Mt.	4512.85	8350.60 Sq.Mt.	486.80 Sq.Mt.	724.18 Sq. Mt.	2031.46 Sq.Mt.	595.31 Sq.Mt.	3350.95 Sq.Mt.

Regarding assessing License fee for sub-rent for the area of admeasuring 3350.95 Sq.Mt., as mentioned in the column hereinabove has been mentioned in the agreement. While giving premise on rent /sub-rent under annexure C, (Point No.4) of the



258

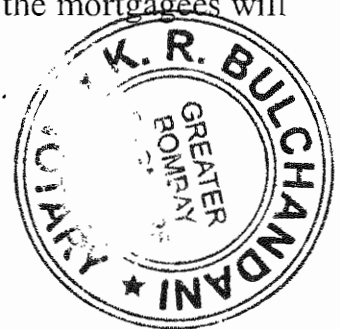
government decision dated 25/05/2007, the license fee for the use of premise for industrial purpose should be charged by the 10% on the transfer fee as indicated in paragraph 1(a) for premises for industrial use and for giving by rent on commercial purpose license fee should be charged at the rate of 12.5% of transfer fee, per annum. Also, in this regard, orders to amended from time to time should be implemented. After that, since the transfer fee/charge was negligible, the government amended it. As per Govt. decision dated 07/07/2017, the transfer fee levied for transferring of commercial / industrial purpose should be determined as Rs.1000 Sq. ft or 6% of the assessment as per the prevailing annual rate statement, whichever amount is excess. Therefore, after 07/07/2017, it is necessary to determine the amount towards sub – rent on the revised transferring fees by 12.5%. The lessee paid a license fee of Rs. 47,00,694/- towards sub – rent at Talathi office and by deducting the said amount, the license fee for the duration i.e. 01/01/2007 to 06/07/2022 is comes as Rs. 7,10,78,279/- and it is necessary to recover from the said amount from Maharashtra Theater Pvt. Ltd. Also, henceforth, the recovery of amount of Rs.58,75,315/- towards annual license fee for sub – rent from them



is Rs. to be recovered required.(calculation chart has been attached herewith.)

**6. Unearned Income:-** According to the Government Memorandum dated 04/09/1997 the company will develop the leased land considering the additional carpet area available under the Development Control Regulations and as the project is expected to cost Rs.85 Crores, and they are going to raise the said fund from various companies they have to be mortgaged their building as well LEASE HOLD RIGHTS of the land granted to them by the government. Accordingly, as per the condition No.10 ,in the Exhibit regarding granting of land i.e. Survey No. 341A, Mouje Bandra, to Maharashtra Theatre Ltd., for mortgaging the Lease Hold rights of the said land and for raising the loan of maximum amount to the total value of the said land as per the prevalent Market Rate, permission has been given to the said company on the terms and conditions on the following terms / conditions.

i. If the lending financial institution decides to sell the plot or leasehold rights or any part thereof, the following amount will be paid to the Government as the first charge and the mortgagees will meet their demands from the remaining amount.



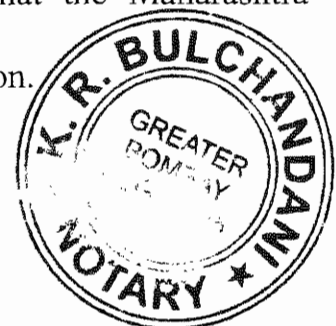
(a) If there is an amount due under the lease, the said amount and the amount due under the agreement.

b) For the purpose of deciding the 50% unearned income of the unearned income received from the sale of the said land the District Collector, Suburban District of Mumbai or any other officer appointed in that behalf by the Government shall determine such unearned amount and, if necessary, obtain orders from the Government at that time.

ii. Without giving 90 days notice to the concerned financial institution, Maharashtra Theaters Pvt. Ltd. The agreement with them will not be terminated or the land will not be repossessed. The intention is that the financial institution concerned should have an opportunity to take remedial measures in case of breach of condition.

iii. In this case, after raising a loan from a financial institution, copies of the certificate from that institution and the proper utilization of the loan shall be submitted to the government.

iv. The District Collector should ensure that the Maharashtra Theaters Pvt. Ltd has not violated any condition.

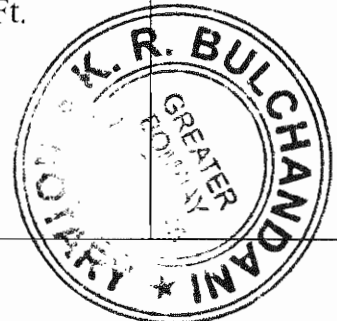


v. It will be mandatory to inform the Collector, the name of the financial institution from whom the company is going to raise the loan otherwise these orders will be invalid.

Accordingly, vide the order dated 01/01/1998 of the District Collector's office, permission has been given the for raising of loan.

On the basis of the said government memorandum, M/s Maharashtra Theater Pvt. Ltd., has raised loan form from various financial institutions. Amongst these loans, it has been come in light that in the year 2013, the loan has been raised from the financial institutions mentioned hereunder by mortgaging the part of the building on the government land.

Mortgage Deed	Mortgaged Area	Loan Amount	Transferre d Area	The date of Transferring/ Person
14/09/2012 Dena Bank and Maharashtra Theatre	Basement- 14841.15Sq.Ft. 6 <sup>th</sup> floor, 17888.81 Sq.Ft. Terrace-1985.00Sq. Feet. 7 <sup>th</sup> Floor-15043.91 Sq.Ft. Terrace – 800,Sq. Ft. 8 <sup>th</sup> floor – 2480 Sq. Ft. Terrace-2085.41 Sq.Ft.	65,35,00,000	6 <sup>th</sup> floor, 10593 Sq. Ft. Alongwith 4 car parking Terrace 1824 Sq. Ft.	Dt. 18/03/2011 Dena Bank to Mid-Day Info Media Ltd., (By E- auction) Selling Price Rs. 36,45,00,000/-



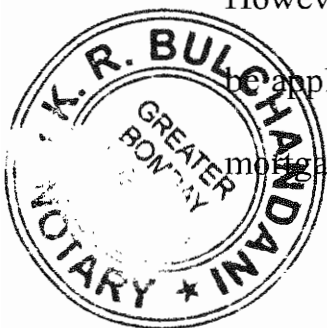
28/03/2013 Dena Bank and Maharashtra Theatre	3 <sup>rd</sup> floor, 13100 Sq. Ft.	35,00,00,000	3 <sup>rd</sup> floor, (3B, 3C) 9297Sq. Ft. Alongwith 4 car parking.	Dt. 18/03/2019 Dena Bank to VRSM ( (Through E- Auction) Selling Price Rs. 28,32,00,000/-
26/03/2014 Dena Bank and Maharashtra Theatre	5 <sup>th</sup> floor- (5B and 5 C) 16027 Sq. Ft. Office Premise on basement 1000, Sq. Ft., Podium Parking 17 Nos.	28,56,00,000	5 <sup>th</sup> floor (5B and 5C), 9499, Sq. Feet. Office premise on basement - 1000 Sq. Ft. alongwith the 4 car parking.	Date 18/03/2019, Dena Bank to Music Broadcast Ltd., (Selling Price through E -Auction), 32,62,00,000/-
31/01/2013 Allahabad Bank and Maharashtra Theatre	Basement-1000Sq, Ft., 4 <sup>th</sup> floor - 13132 Sq. Ft., 5 <sup>th</sup> floor - 2680 Sq. Ft.	55,00,00,000	Basement 1000 Sq. Ft.	Dt. 30/03/2019 Allahabad Bank to Mid day Info Media Ltd., (Selling Price Through E - Auction) Rs. 1,28,00,000/-
<b>Total</b>		<b>1,83,91,00,000/-</b>		<b>98,67,00,000/-</b>

In the explanation given by the M/S Maharashtra Theatre Pvt., Ltd, clarified that they have not raised loan against the land, the loan has been raised on the building structure as per the condition No 11(vii) in



the agreement dated 05/12/2005 executed by and between the District Collector and Lessee namely M/s Maharashtra Theatre Pvt., Ltd. As well, as per the permission for mortgaging vide the government Memorandum dated 04/09/1997, the 50% amount towards the unearned income is applied only for the transferring of the land and not for the area of the building. Hence, condition No.2 in the agreement dated 05/12/2005 “ The Lessee is permitted to mortgage the lease hold rights or part thereof with bank or financial institute, subject to the condition laid down in government in revenue and forests department memorandum No. Land-2697/C.R.7019/j-3,dt 04/09/1997. The lessee should strictly observe the said conditions and comply.” has not been breached. As well the condition No.11(vii) in the said agreement is that the lessee shall not directly or indirectly transfer, assign, encumber, mortgage land or part with its interest under or benefit of lease of land in manner thereof, without the previous consent in writing of the Government. Government will be free to refuse such consent or grant it subject to such conditions including a condition regarding the payment of premium as Government may in its absolute discretion think fit. However, this condition is subject to clause 2 hereinabove and shall not

be applicable to the lease in case of if it transfer, assigns, encumbers, mortgages of parts with its interest in respect of the structure/structures.





However, in the Maharashtra Land Revenue, 1966, the definition of the land has been clearly explained. It includes the benefit of the land, and the property attached to the land or any property permanently attached to the property to the land, and also the share or assessment in the share in volume or assessment thereon fixed for villages or other revenue or territories. Land means not only the surface of the land but also everything that is soil on it and everything therein which includes tree, bush, grass, sand and building. The land is comes under Immovable Property and similarly the income received from the land means the building which attached to the land permanently. As the government has given permission to the Lessee for mortgaging the Lease Hold Rights for raising loan and on the basis of the said Government the Lessee has raised loan by mortgaging the Lease Hold rights hence it would not be reasonable to say that Lessee M/s Maharashtra Theatre Pvt., Ltd., has raised on the building premises instead of raising the loan on the land.

As well in the condition No. 11(ix) of the agreement it has mentioned that” To abide by other relevant provisions of Maharashtra Land Revenue Code, 1966 (Mah.Act No.XLI of 19 and the rules made thereunder and any amendments thereof.” On observing the above mentioned things, though the company has not directly transferred the



said land, the part of the construction on the said land (F.S.I.) means 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> floor and 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> floor has been mortgaged and sold to the individuals, institution through auction means the rights created in proportioned principle on the lease land has been transferred without permission and the same constitute the breach of condition.

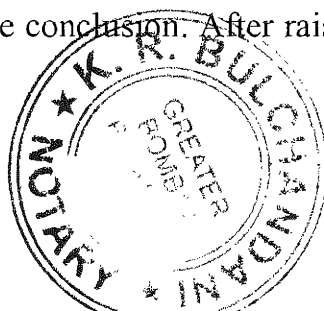
In other words, Section 72 of the Maharashtra Land Revenue Act, 1966 provides that "Land revenue shall be the superior charge on the land. Also, Section 264 provides for "Land revenue liability" as follows:-

**“Section 264 - Liability of land revenue-**

(1) The superior holder of the land or in his absence the person in actual possession of the land, shall be liable in person for the land revenue due on the land held.

(2) Arrears of land revenue due in respect of land shall be a principal lien on the land and every part thereof in default of payment on or within such date as may be specified in a notice placed on or near the land, by a person having an interest therein.

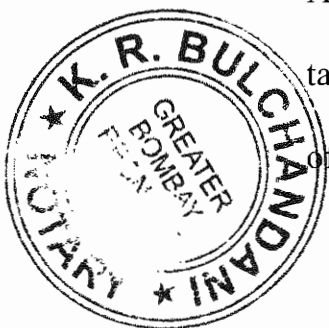
7. The lessee by mortgaging the buildings on Government land and loan has been raised by the M/s Maharashtra Theater Pvt. Ltd., as mentioned in the point No. 6 in the conclusion. After raising a loan



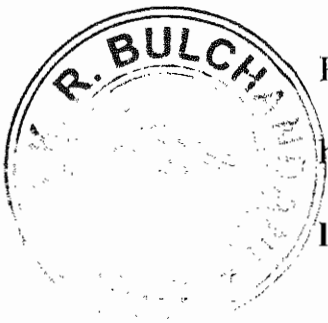
from any bank, it is the borrower's duty to pay back the same as per the rules. However, as mentioned in the terms and conditions, the bank and the lessee have not given any prior notice to the Collector office. As the loan was not paid, around September, 2017, judgment regarding action taken under the securitization and restructuring of financial assets and proceedings under the Security and Enforcement Act, 2002. As a result of the judgment, for recovering loan, the property of the building floors on the land granted by the lease was seized and a notice for selling of various constructions issued to sell the various constructed floors was published. Amongst them floor no. 3rd, 5<sup>th</sup> and 6th & basement sold by bank old by auction on As is where is. As per the Government Memorandum dated 04/09/1997. As per the permission given by the government for raising the loan by mortgaging the Lease Hold Rights of the land granted by the government and based on that they have raised pages from various banks. Therefore, since the right of lease is being hereby transferred on a proportional basis, considering condition 1(b) of permission granted vide the Government Memorandum dt. 04/09/1997 and the terms of the agreement, as well as per the order dated 12/12/2001, of District Collector's office, I have come to the



conclusion that 50% of the unearned amount is payable to the Government from the proceeds of such sale, transfer, shareholding agreement, creation of any kind of power of attorney, interest of third parties. They have not sold or transferred the transferring area in the said building to anyone, however they have only mortgaged it with the bank. The lessee institute says that since the sale/auction/transfer of the said transfer area was done by the bank and therefore it was necessary for them to take the permission of the collector's office before auctioning or selling the said transfer area and since they did not take permission, the amount towards said transferring should be recovered from the concerned bank. However, as per 4(b) of the government decision dated 25/05/2017 is stated that "If the borrower person/institution fails to repay the loan taken by pledging the flat/blocks in the concerned building on Government/Nazul land, the entire responsibility shall remain with that person/institution". Also during the hearing the bank submitted the order dated 03/07/2013 of Hon'ble High Court, Gujarat in Canara Bank Ashram Road Vs. Collector of Stamps Special Civil Application No. 2113 of 2022 wherein it has been mentioned that taking possession, merely gets a right to sell the property on behalf of the debtor and any sale made by the secure creditor should be



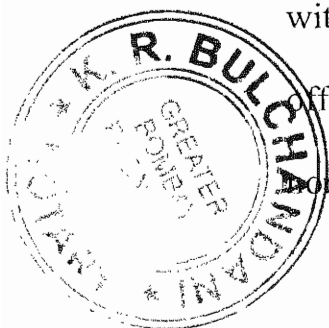
deemed to be a sale made by the debtor himself..." And from this it is observed that as Maharashtra Theater Pvt. Ltd. has not paid the loan amount, hence on behalf of Maharashtra Theater Pvt.Ltd .,bank has done the auction therefore Maharashtra Theater Pvt. Ltd., is fully liable for the sale transaction Therefore, I have come to the conclusion that unearned income on sale/transfer should be recovered from the Maharashtra Theater Pvt. Ltd., instead of recovering the same from the Bank. Therefore, according to the government resolution dated 28/01/2014 regarding the transferring of the government land, land transfer case, according to the government decision dated 28/01/2014, there is provision that even in the case of regularization of the violation of conditions in the case of government land, if the actual purchase price is higher than the price of the Ready Reckoner Rate, unearned income and penalty amount should be levied by considering the said higher price. According to the Ready Reckoner rate for the year 2018-19, the market value of the area transferred through auction is comes as Rs. 1,16,23,30,452/- and it's 50% i.e. amount of Rs Rs.58,11,65,226/- is comes as unearned income (Calculation Chart has been attached herewith). **On the point that how should the leasehold rights be given to the buyer on the government land**



**after paying the said amount? it will be appropriate to get guidance from the government in this regard.**

8. As per the report dated 14/01/2020 of the Tehsildar, Andheri, at present there is building comprising basement + ground floor + 1st to 8<sup>th</sup> on the said property. It is also seen that the theater and the second floor are in the possession of the bank. Similarly, the lessee institute vide the written submission dated 23/03/2021 mentioned that the theater is closed and attached by Bank of Baroda (Dena Bank) and will open the theater when the bank releases it. And it clears that the lessee has raised a loan on the theater area and as said loan has not been paid by them bank has sealed the said theatre. As well on observing the explanation given on dated 20/01/2... by Music Broadcast Ltd., Maharashtra Theater Pvt. Ltd., have mortgaged the floors or parts of the buildings on government plots to Dena Bank, Axis Bank, Canara Bank and Allahabad Bank without taking any permission from the government or informing the government. This means that by using the permission given by the government, by misinterpreting the terms of the agreement and without giving any information about the mortgage to the collector

office has mortgaged almost the entire building. Neither the bank or the lessee submitted any documents in this regard in the



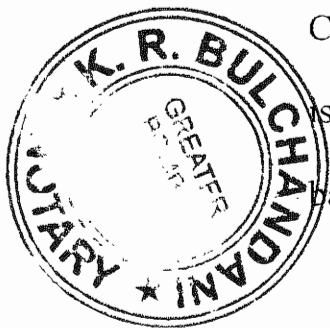
27<sup>o</sup>

hearing. However, due to non-repayment of the loan by mortgaging the part of the building on the government land, theatre, the second floor and the seventh floor have also been sealed by the financial institution. Beside the above mentioned chart from Dena Bank (now Bank of Baroda) and Allahabad Bank (now Indian Bank) who remained present at the hearing, it is necessary to obtain detail information i.e. How many premises/lease hold rights of the land granted on lease to M/s Maharashtra Theater Pvt. Ltd. has been mortgaged? How much money has been raised? The documents submitted while raising the loan as well as whether any legal proceedings for repayment of the loan has been started or how? Accordingly, it is necessary to get the above information from Axis Bank and Canara Bank in the said building. It is also appropriate to give clear instructions to them that no procedure of auction should be adopted without the prior permission of the Government/District Magistrate.

9. The lessee institute says that according to the decision of the Government, dated 27/02/2009, the bank (Dena Bank) did not complete the mandatory procedure and the bank auctioned the property at a lower rate than the market value through auction and as the prior permission of the government/ district collector has



not been taken for transfer of the property, as per the said government decision, hence transferring is not under auction. There is provision in condition No.1 of the said government decision that in case of sale, transfer or auction of the government land granted on lease or possessory rights to various individuals or companies for various purposes, due to order issued by court, financial institution; revenue arbitrator or otherwise for any reason of recovery of arrears, the prior permission of the government is mandatory for auctioning. Otherwise the sale and purchase will be illegal and will not be binding on the Government". It is true that Dena Bank (Bank of Baroda) and Allahabad Bank (Indian Bank) have not taken the prior permission of the Government/District Magistrate while doing auction. However, as a lessee it was required to Maharashtra Theater Pvt. Ltd., to invite the attention of the Collector/Government towards the thing that the floors in the building are going under auction process, however, they did not do so as well the information i.e. how much loan they have taken from various bank has not been informed by them to the District Collector /Government. Therefore, Maharashtra Theatre Pvt., Ltd., is responsible for the said auction. Even though it is proper that the bank has sold the portion of government land through auction on





272

behalf of the borrower as per Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 due to non-repayment of the loan amount by the borrower, it is definitely not justified. Hence, henceforth it will be necessary to warn the banks to take the prior permission of the District Collector before selling any part of the land/building on the government land by auction.

Considering the said findings, the condition No. (2) in lease agreement dated 05/12/2005 and condition 1 (b) of mortgage permission granted vide Government Memorandum dated 04/09/1997 has been breached by the lessee. Also, as per the condition No.(A), of the government memorandum dated 07/11/2011, construction has not been completed within prescribed time limit. However, in view of the natural justice, an opportunity is being given to pay the amount due to the government to regularize the breach of condition by the lessee. But if the lessee does not pay the ordered amounts, the said land is eligible for government deposit according to the condition No.20, "That the land with structures thereon will be liable to resumed to

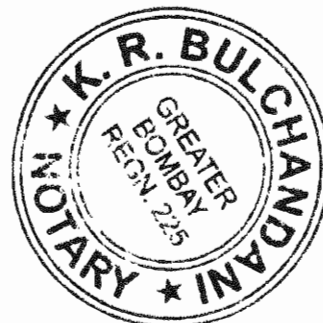


government without pay any compensation for breach of the above conditions”.

Therefore, by taking into consideration the above facts, I, Nidhi Choudhary, District Collector, Mumbai Suburb, hereby order as follows.

### Order

- 1) Maharashtra Theater Pvt. Ltd. shall pay the amount of Rs.2,15,77,985/- by online through GRAS System, towards extension in time for construction to government within 30 days.
- 2) Maharashtra Theater Pvt. Ltd. shall pay the amount of Rs.7,10,78,279/- by online through GRAS System, towards license fee for the sub rent, to the government, within 30 days.
- 3) For transferring area on the government land in the S.N.341(P), 629/1252, at Mouje Bandra, Tahsil – Andheri, Maharashtra Theater Pvt. Ltd. shall pay the amount of Rs.58,11,65,226/- towards 50% unearned amount thereon by online through GRAS System, to the government, within 30 days. Also, information about the mortgage in the said building and how much loan has been raised from various bank/s should be submitted to the Collector's office within 7 days.

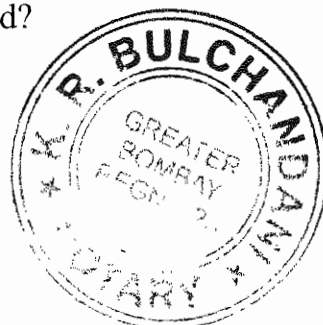


274

4) Dena Bank (now Bank of Baroda) occupies the theater and Allahabad Bank (now Indian Bank) occupies the second floor. Therefore, the information of the loan taken on this government building should be submitted to the collector office along with the documents submitted while taking the loan. Also, henceforth proper permission of Collector/Government should be taken before selling the Government land/portion in the building through auction.

5) The information regarding loan should be taken from the Canara Bank and Axis bank in the said building and clear clear instructions should be given to them that no auction procedure shall be adopted without the prior permission of the Government/District Magistrate.

6) After Maharashtra Theater Pvt. Ltd., is paid the amount mentioned in the Sr. No.1 to 3 of the said order to the government, further action should be taken on the application of the buyers who bought in the auction and guidance from the government should be sought on point that how the lease rights should be given to the buyers on the government land?



(7) After paying of the amount mentioned in the Sr. No.1 to 3 of the said order by Maharashtra Theater Pvt. Ltd., to the government in prescribed time limit, the Tehsildar, Andheri and City Land Survey Officer, Bandra should proceed ahead according to the condition No. 20 in the Agreement, for repossessing the said land to the government.

8) The order shall communicate to all concerned

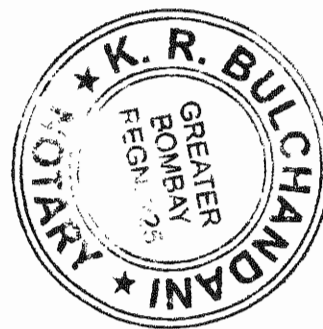
Location: Bandra, Mumbai

Date: 13/07/2022

(Nidhi Chaudhary)

District Collector, Mumbai

Collector, Mumbai Suburbs



6

~~Exhibit A~~

30

अपर आयुक्त, कोकण विभाग, मुंबई यांचे न्यायालयात

क्र.अपील/डेस्क/एलएनडी/४१४/२०२२

महाराष्ट्र थिएटर प्रा.लि.

प्राधिकृत प्रतिनिधी, श्री.अनुभव अगरवाल

ऑफिस :- आरएनए कॉर्पोरेट पार्क,

जिल्हाधिकारी, कार्यालयाजवळ,

बांद्रा (पूर्व), मुंबई ४०० ०५१

---- अपिलार्थी

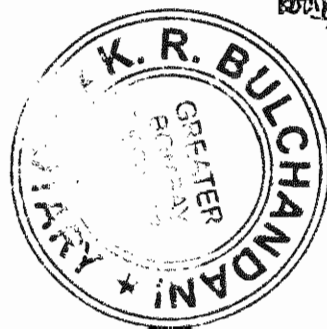
विरुद्ध

- १) जिल्हाधिकारी, मुंबई उपनगर जिल्हा
- २) मे.मिडडे इन्फोमिडीया लि.  
६ वा मजला, आरएनए कॉर्पोरेट पार्क,  
जिल्हाधिकारी कार्यालया जवळ,  
बांद्रा (पूर्व), मुंबई ४०० ०५१
- ३) म. व्हीआरएसम एन्टरप्राइझेस एलएलपी,  
३ रा मजला, आरएनए कॉर्पोरेट पार्क,  
जिल्हाधिकारी कार्यालया जवळ,  
बांद्रा (पूर्व), मुंबई ४०० ०५१
- ४) मे.म्युसिक ब्राडकास्ट लिमिटेड  
५ वा मजला, आरएनए कॉर्पोरेट पार्क,  
जिल्हाधिकारी कार्यालया जवळ,  
बांद्रा (पूर्व), मुंबई ४०० ०५१
- ५) बँक ऑफ बरोडा (पूर्वीची देना बँक)  
मुख्य कार्यालय :- सी/१०, जी ब्लॉक,  
बीकेसी, देना कॉर्पोरेट सेंटर, बांद्रा (पूर्व),  
मुंबई ४०० ०५१
- ६) इंडीयन बँक (पूर्वीची अलाहाबाद बँक)  
इंडस्ट्रीयल फायनान्स ब्रांच, ३७,  
मुंबई समाचार मार्ग, फोर्ट, मुंबई ४०० ००१

---- सामनेवाले

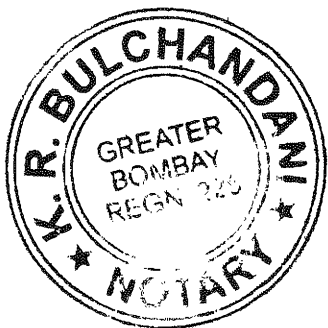
महाराष्ट्र जमीन महसूल संहिता, १९६६ चे कलम २४७ अन्वये अपील अर्ज

एलएनडी/४१४/२०२२



31

- १) अपीलार्थीने जिल्हाधिकारी, मुंबई उपनगर यांचे आदेश क्रसी/कार्या-३डी/एल-२३५/७३६/२०२२, दिनांक १३.०७.२०२२ चे आदेश या न्यायालयात आव्हानीत केले आहेत. दिनांक ०६.१२.२०२२ रोजी प्रकरण निर्णयासाठी बंद करण्यात आले. अपीलार्थी यांचे चुक्तीवादातील सारांश खालीलप्रमाणे आहे.
- १) शासन महसूल व वन विभागाने बांद्रा येथील सर्वे नं. ३४१ अ मधील ४५४५ चौ.मी. क्षेत्र भाडेपट्टयाने ५ टक्के प्रतिवर्ष या दराने अटी व शर्तीच्या अधीन राहून दिलेले होते. दिनांक ११.०९.१९६९ रोजी अपर जिल्हाधिकारी, मुंबई उपनगर यांनी सदर मिळकत अपीलार्थीस देण्याचे औपचारिक आदेश पारित केले. त्यानुसार अपीलकर्त्याने सदर जागेवर इमारत बांधली. तथापी अपीलकर्त्याने १.०० अनुज्ञेय चटईक्षेत्राच्या तुलनेत ०.४५ पट एफएसआय सिनेमा थिएटरसाठी वापरल्याने अपीलकर्त्याचे मोठे नुकसान झाले. अपीलकर्त्याने अतिरिक्त चटईक्षेत्र मिळविण्यासाठी शासनाकडे संपर्क साधलेला होता.
- २) दिनांक ०९.०७.१९८१ च्या अधिसूचनेने शासनाने १८.०६.१९६९ च्या पूर्वीच्या आदेशात बदल करून सिनेमा थिएटरसाठी ०.४५ चटई क्षेत्र वापरणे सुरू ठेवले जाईल असे जारी केले आणि अतिरिक्त ०.६५ पैकी ०.१५ चटईक्षेत्राचा वापर दुकाने व बँकेसाठी केला जाईल व ०.४० क्षेत्र हॉटेलसाठी वापरले जाईल, असे निदेश देऊन सदर जमीन १९ वर्षासाठी अपीलकर्त्यास सिनेमा थिएटरसाठी भाडेपट्टयाने प्रदान केली आहे. सदर जापनातील ३(२) मध्ये अशी तरतूद करण्यात आली होती की, भाडेपट्टादार स्वतः इमारतीमध्ये हॉटेल बांधेल आणि चालवेल. इतर कोणासही हॉटेल चालविण्यास परवानगी देणार नाही. दिनांक ३०.०६.१९९४ रोजी जमीनीच्या उपलब्ध चटईक्षेत्रापैकी जमीनीचा वापरात बदल करून सिनेमा थिएटरसाठी १ टक्के, दुकाने आणि बँकेसाठी १० टक्के व हॉटेलसाठी ८० टक्के वापरण्यास परवानगी देण्यात आली होती. या संदर्भात हॉटेलच्या ८० टक्के वापरासाठी वार्षिक भाडे ८ टक्के असेल असे निदेश देण्यात आले होते. दिनांक ३०.०६.१९९४ रोजी उक्त जापनाच्या आधारे जिल्हाधिकारी यांनी दिनांक १९.०७.१९९४ रोजी आदेश पारित केले आहेत.
- ३) शासनाने दिनांक ०९.०७.१९८१ रोजीच्या आदेशातील अट क्र.३(२) शिथिल केल्याचे दिनांक २०.०८.१९९७ रोजी जापन पारित केले. त्यास अनुसरून जिल्हाधिकारी, मुंबई उपनगर यांनी दिनांक ०१.०१.१९९८ रोजी जापन दिले होते. त्याच दिवशी जिल्हाधिकारी यांनी जमीनीतील अपीलकर्त्यास भाडेपट्टा हक्क गहाण ठेवण्यास परवानगीचे आदेश पारित केले. सदर आदेशाच्या कलम १ मध्ये अशी तरतूद करण्यात आली की, कर्ज देणाऱ्या वित्तीय संस्थेने भूखंड किंवा भाडेपट्टा हक्क व त्याचा कोणताही भाग कसूरीचे कारणास्तव विकावयास/लिलावात काढल्यास पहीला भार म्हणून शासनास थकीत भाडे, शासना देय शुल्क व अनर्जित उत्पन्नाच्या ५० टक्के शुल्क भरावे लागेल. अपीलकर्त्याने पुन्हा जमीनीच्या वापरात बदल करण्यासाठी सिनेमा थिएटरसाठी १० टक्के एफएसआय व कार्यालयाच्या बांधकामासाठी १० टक्के एफएसआय मिळणेसाठी अर्ज केला होता. शासनाने दिनांक



Handwritten signature or mark.

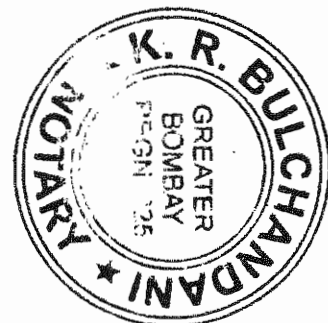
32

०७.११.२००१ रोजी जापन जारी केले होते. दिनांक २३.११.२००१ रोजी शासन महसूल व वन विभागाने अनर्जित उत्पन्न ठरविण्यासाठी आदेश पारीत केला होता. जिल्हाधिकारी, मुंबई उपनगर यांनी दिनांक १२.१२.२००१ रोजी आदेश पारीत करून दावा मिळकतीसाठी वार्षिक भाडे ८२,३८१/- निश्चित केले होते. त्यानुसार अपीलकर्त्याने तळघर अधिक सिनेमा थिएटर, बँक, पार्किंग आणि कार्यालयातील मजले इत्यादी समावेश असलेली इमारत बांधली. दिनांक ०५.१२.२००५ रोजी शासनाने जिल्हाधिकारी, मुंबई यांचेमार्फत अपीलकर्त्याचे लाभात भाडेपट्टा करार अंमलात आणला. तो नोंदणीकृत करण्यात आला आहे.

- ४) दिनांक ०७.०६.२००६ रोजी महानगर पालिकेने एक व्यवसाय प्रमाणपत्र जारी केले होते. दिनांक १४.०९.२०१२ रोजी अपीलकर्त्याने देना बँकेच्या नावे (सामनेवाले क्र. ५) इमारीच्या संरचनेच्या विविध भागां संदर्भात ज्याला आरएनए कॉर्पोरेटपार्क म्हणून ओळखले जाते, त्या संदर्भात गहाणखते अंमलात आणली होती. सदर गहाणखत नोंदणीकृत करण्यात आले होते. दिनांक ३१.०१.२०१३ रोजी अपीलकर्ता आणि आरएनए कॉर्पोरेट प्रा.लि. यांनी संयुक्तपणे अलाहाबाद बँकेच्या नावे तारणपत्र कार्यान्वीत केले. त्या जमीनीवरील वरच्या संरचनेच्या विविध भागांच्या संदर्भात जी आता आरएनए कॉर्पोरेट पार्क म्हणून ओळखली जाते, जी सुरक्षा देऊ केली होती. दिनांक २८.०३.२०१३ रोजी अपीलकर्त्याने देना बँकेच्या नावे गहाणखतपत्राचा दुसरे नोंदणीकृत करारनामा अंमलात आणले. दिनांक २६.०३.२०१४ रोजी अपीलकर्ता आणि त्याचे संचालक अनिलकुमार अगरवाल यांनी देना बँकेच्या नावे आणखी एक गहाण खत अंमलात आणले. आणि अपीलकर्त्याने घेतलेल्या कर्जाबाबत तारण ठेवले. सदर गहाणखत नोंदणीकृत करण्यात आले होते. दिनांक ११.०१.२०१७ रोजी शासनाने भाडेपट्टयाने दिलेल्या सरकारी जमीनीवरील इमारत बांधकामास मुदतवाढ देण्याबाबत प्रिमियम आकारणी करण्याबाबत धोरण तयार केले. त्यानुसार दिनांक ०४.०२.२०१८ रोजी बांधकाम दोन वर्षात (२००३ पर्यंत) पूर्ण करावयाचे होते. परंतु बांधकाम ०७.०७.२००६ रोजी पूर्ण झाल्याने शासन धोरणा नुसार मागणी नोटीस देण्यात आली होती.
- ५) दिनांक ०८.०१.२०१८ रोजी, अलाहाबाद बँकेने आरएनए कॉर्पोरेट पार्क म्हणून नवीन इमारतीतील तळघर क्षेत्र, २ व ४ था व ५ वा मजल्या संदर्भात सरफेसी कायदा, २००२ अंतर्गत कार्यवाही सुरू केली होती. अपीलकर्त्याने घेतलेल्या कर्ज/ सुविधांच्या परतफेडीच्या बाबतीत कथित चूक झाल्याने कलम १४ अंतर्गत कार्यवाही सुरू केली होती. त्यामध्ये अतिरिक्त मुख्य महानगर दंडाधिकारी, मुंबई यांनी प्रकरण क्र. २४०/एए/२०१७ मध्ये भौतिक ताबा घेण्याचा आदेश दिला होता. सामनेवाले क्र. २ ते ४ यांचे ताब्यात परवानाधारक म्हणून काही कार्यालये होती. दिनांक ०४.१०.२०१८ रोजी सामनेवाले क्र. १ ने मागणीची नोटीस दिलेली होती. सामनेवाले क्र २ ते ४ च्या मुळ घटकाने मा.उच्च न्यायालयात रिट पिटीशन क्र. २५०४/२०१८ दाखल केले होते. सदर रिट याचिका सामनेवाले क्र. २ ते ४ यांची आरएनए कॉर्पोरेट पार्क इमारती मधील तळमजला, ४ था मजला व ५ वा मजल्याची हमी घेऊन



एलएनडी/४९४/२०२२



3

33

निकाली काढलेले होते. सामनेवाले क्र. ५ व ६ बँकेनी सामनेवाले क्र. २ ते ४ च्या संगनमताने सुरक्षा म्हणने ठेवलेल्या युनिटचा लिलाव केला आहे. सदर लिलाव हा सरफेसी कायदा २००२ च्या कायद्याचे उल्लंघन करून केले आहे. दिनांक २९.०३.२०१९ रोजी संगनमताने कारवाई करून बँक ऑफ बरोडा पूर्वीची देना बँक व इंडीयन बँक पूर्वीची अलाहाबाद बँक यांनी चार वेगळ्या मजल्यावरील चार विक्री प्रमाणपत्रे जारी केली.

- ६) दिनांक २९.०८.२०१८ रोजी जिल्हाधिकारी यांनी अपीलकर्ता आणि सामनेवाले क्र. २ ते ५ यांना नोटीस दिल्या होत्या. त्यामध्ये सामनेवाले क्र. ५ व ६ यांनी आयोजित केलेला ई लिलावा शासनाच्या किंवा जिल्हाधिकारी यांची मंजूरी न घेतल्याने बेकायदेशीर असल्याचे नमूद केले होते. दिनांक ०६.०१.२०२१ रोजी २०.०१.२०२१ रोजी सुनावणी असल्याची नोटीस दिली होती. तसेच दिनांक २२.०२.२०२२ रोजी नोटीस दिली होती. दिनांक ०१.०४.२०२२ रोजी नोटीस दिली होती. अपीलकर्त्याने दिनांक २५.०४.२०२२ रोजी सुधारीत कारणे दाखवा सूचनेला सविस्तर उत्तर दिले होते. दिनांक १३.०७.२०२२ रोजी जिल्हाधिकारी यांनी आक्षेपीत आदेश दिले आहेत.
- ७) अपीलकर्त्यास बांधकामास दिरंगाई बद्दल दंड ठोठावण्यात आलेला आहे. सदर रक्कम रु. २,१५,७७,१८५/- चा दंड ठोठावण्याची कृती अधिकार क्षेत्राशिवाय आहे. तथापी सदर विलंबासाठी अपीलकर्ता हा जबाबदार नव्हता. महानगरपालिकेकडून विलंब झाल्यामुळे प्लॅनिंग प्राधिकरणाने आवश्यक परवानगी जारी केली होती. त्यामुळे बांधकाम पूर्ण करण्यास विलंब झालेला आहे. दिनांक १२.१२.२००१ चे आदेशात अपीलकर्त्याने उक्त भाडेपट्टा जमीनीवर इमारत बांधताना विकास नियंत्रण नियमावलीचे पालन करणे आवश्यक होते. आणि त्या परवानगी पासून २ वर्षांचे आत बांधकाम केले आहे. दिनांक ०५.१२.२००५ चे करारामध्ये दोन वर्षांचे आत बांधकाम करण्याची अट घातली नव्हती. अपीलकर्त्याने योजनेत मंजूर करण्यासाठी केलेला अर्ज दिनांक २७.०६.२००२ रोजी फेटाळण्यात आलेला होता. महानगर पालिकेने योजना मंजूर करण्यास नकार दिल्याने त्याविरुद्ध मा.मुख्यमंत्री यांचेकडे अपील दाखल केले होते. मा.मुख्यमंत्री यांनी दिनांक ११.०३.२००४ रोजी अपील मंजूर केल्याने दिनांक ०८.०७.२००४ रोजी प्रारंभ प्रमाणपत्र जारी करण्यात आले आहे. दिनांक ०७.०७.२००६ रोजी वर्षभरात बांधकाम पूर्ण केले आहे. त्यामुळे दिनांक ०१.०६.२०१९ चे निर्णय नूसार केलेली दंडाची आकारणी ही अवैध आहे.
- ८) सामनेवाले क्र. २ ते ४ आणि त्यांचे गट हे अपीलकर्त्यांचे विद्यमान परवाना धारक होते. त्यांना या जमीनीवर आरएनए कॉर्पोरेट पार्कची इमारत बांधण्यात आली होती व सदर जमीन शासनाचे मालकीची आहे आणि ती भाडेत्त्वावर देण्यात आली आहे, या वस्तुस्थितीची पूर्ण माहिती होती. अशा जमीनीच्या हस्तांतरणावर निर्बंध/ प्रिमियत/ अनर्जित उत्पन्न भरण्याबाबत माहिती होती. सामनेवाले क्र. २ ते ४ यांनी शासनाचे पूर्वपरवानगी शिवाय अशा प्रकारची लिलाव/विक्री करता आली नसती याची माहिती असताना त्यांच्या ताब्यातील मजले

एलएनडी/४१४/२०२२

4



*[Handwritten signature]*



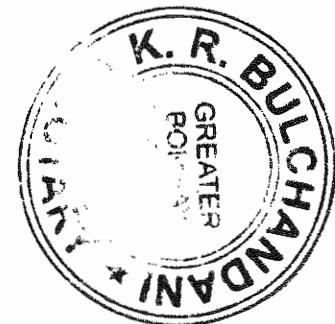
34

आवश्यक प्रिमियम न देता खरेदी केले होते. असे असताना धक्कादायकपणे अपीलकर्त्याला ५० टक्के अनर्जित उत्पन्नासाठी प्रिमियम भरण्याचे निर्देश देण्यात आले आहेत. सामनेवाले क्र. ५ व ६ बँकानाही या बाबीची पूर्ण माहिती होती की, १. ज्या जमीनीवर आरएनए कॉर्पोरेट पार्कची इमारत बांधण्यात आली आहे ती जमीन सरकारच्या मालकीची भाडेपट्टा मालमत्ता आहे २. अटी व शर्तीबद्दल भाडेकरार व हस्तांतरणातील निर्बंध याची माहिती होती. शासनाचा पूर्वपरवानगी घेणे बंधनकारक आहे याचीही जाणीव होती. जिल्हाधिकारी हे दिनांक २१.११.१९५७ च्या शासन निर्णयावर विसंबून आहेत, हे देखील चुकीचे आहे. दिनांक २१.११.१९५७, ११.०१.२०१७ आणि ०१.०३.२०१९ च्या शासन निर्णयामध्ये कोणतेही वैधानिक अधिकार नाहीत. ते केवळ कार्यवाही सूचनांचे स्वरूपाचे असल्याने दंड आकारणे मान्य नाही.

- ९) दिनांक ०९.०७.१९८१, ३०.०६.१९९४ आणि ०७.११.२००१ च्या शासन आदेशात बांधकाम पूर्ण झाल्यास विलंब आकारण्यात येईल, अशी अट नाही. अपीलकर्त्यास दिनांक ०५.१२.२००५ च्या भाडेपट्टा करारानुसार लीज करारनाम्या नुसार मालमत्ता गहाण ठेवण्याची परवानगी देण्यात आली होती. त्यामुळे सामनेवाले क्र. ५ व ६ यांच्या नावे गहाणखत तयार केल्याने उल्लंघन झालेले नाही. अपीलकर्त्याने सामनेवाले क्र. २ ते ४ किंवा इतर कोणाच्याही बाजूने कोणतेही तृतीय हितसंबंध प्रस्थापीत केलेले नाहीत. हे मान्य आहे की, कोणतेही विक्रीपत्र नव्हते, हस्तांतरणासाठी कोणताही करार नाही, मुखत्यारपत्र नाही कोणतेही अधिकार निर्माण केलेले नाहीत. सामनेवाले क्र. २ ते ४ हे नोंदणीकृत करारनाम्याने परवाना धारक होत. अशा परवान्याची निर्माती ही तृतीय पक्षाच्या हितसंबंधासाठी होऊ शकत नाही.
- १०) परिच्छेद क्र. ५ मधील निरीक्षणे चुकीची आहेत. सामनेवाले क्र. २ ते ४ हे भाडेकरू म्हणून सूचीत केले आहे, ते चुकीचे आहे. खरेतर सामनेवाले हे नोंदणीकृत परवानाकराराने परवाना धारक आहेत. त्यामुळे त्यांना भाडेकरू किंवा उपभाडेकरू समजता येणार नाही. दिनांक २५.०७.२००७ वर अवलंबून राहणे चुकीचे असून तो शासन निर्णय केवळ पोटभाडेपट्टा तयार झाल्यावर लागू होतो. पोटभाडेपट्टा तयार केल्यावर पोटभाडेपट्टा वसूल केला जाता. सदरचा शासन निर्णय हा औद्योगिक कारणासाठी १० टक्के व व्यवसायिक कारणासाठी १२.५ टक्के आकारला जातो. त्यामुळे शासन निर्णय दिनांक २५.०५.२००७ किंवा ०७.०७.२०१७ लागू होत नाही. रक्कम रुपये ७,१०,७८,२७९ ची मागणी करणे धक्कादायक आहे. दिनांक ०७.०७.२०१७ च्या निर्णय पूर्वलक्षी प्रभावाने लागू करता येणार नसल्याने रु. ७,१०,७८,२७९/- पूर्णपणे कायद्याच्या कोणत्याही अधिकाराविना आकारण्यात आली आहे. कथित पोटभाडेपट्टा/भाडेपट्टाने प्रिमियम आकारण्यासाठी दिनांक २१.११.२००१ आणि २४.०८.२००४ च्या सरकारी ज्ञापन या प्रकरणी लागू होत नाहीत. प्रकरणी जमीनीत भाडेकरूचा किंवा मालमत्तेवर कोणतेही हितसंबंध निर्माण करण्याचा प्रश्नच नव्हता. कोणतही परिस्थितीत पूर्वलक्षी प्रभावाने दिनांक २१.११.२००१ व २४.०८.२००४ नुसार भाडेकरारासाठी प्रिमियम आकारणे अयोग्य आहे. सामनेवाले क्र. २ ते ४ आणि त्याचे घटक



Handwritten signature or initials.



35

हे अपीलार्थीचे विद्यमान परवानाधारक होते. त्यांना या वस्तुस्थितीची पूर्ण जाणीव होती की, आरएनए कॉर्पोरेट पार्कची इमारत बांधण्यात आली आहे, ती जमीन सरकारच्या मालकीची आहे. त्यांना हस्तांतरणा वरील निर्बंध व अप्रिमियम/ अनर्जित उत्पन्न भरण्याच्या आवश्यकते बद्दल माहिती होती. अशा स्थितीत सामनेवाले क्र. २ ते ४ यांनी शासनाच्या पूर्वपरवानगी शिवाय अशी लिलाव विक्री करता आली नसती याची माहिती घेऊन फसवणूकीने त्यांच्या ताब्यातील मजले खरेदी केले होते. असे असतांना अपीलकर्त्याला ५० टक्के अनर्जित रक्कम भरण्याचे आदेश देण्यात आले आहेत. दिनांक ०७.०७.२०१७ चा निर्णय कोणत्याही आधाराविना असून तक्त्याचे अवलोकन केल्यास असे सूचित होते की, आकारण्यात आलेली रक्कम ही शासनाने आकारलेल्या भाड्यापेक्षा जास्त आहे.

- ११) आम्हांनीत आदेशाने वार्षिक शुल्क वसूल करण्याचे निर्देश देणारी ५८,११,६५,२२६/- ची केलेली मागणी बेकायदेशीर आहे. अनर्जित मिळकती बाबत निकालाच्या परिच्छेद क्र. ६ मधील निरीक्षणे चूकीची आहेत. अपीलकर्त्याला उक्त जमीनीतील भाडेपट्टाहक्क गहाण ठेवण्याची परवानगी देण्यात आली होती. जोपर्यंत अपीलकर्त्याने बांधलेल्या इमारतीचा संबंध आहे, तोपर्यंत सामनेवाला क्र. १ ला इमारतीवर कोणताही अधिकार नसल्याने त्या संदर्भात कोणतेही शुल्क किंवा प्रिमियम घेण्याची प्रश्नच नव्हता. दिनांक ११.०१.१९६९ च्या आदेशाचा आणि ०१.०१.१९९८ च्या जिल्हाधिकारी यांनी पारीत केलेल्या कलम १० चा पूर्णपणे चूकीचा अर्थ लावलेला आहे. दिनांक ०१.०१.१९९८ च्या आदेशात नमूद केले आहे की, कोणत्याही वित्तीय संस्थाना मालमत्तेचा लिलाव करणे आवश्यक असल्यास अशा संस्थानी थकित भाडेपट्ट्याचे भाडे अदा करणे आवश्यक आहे. अशी तरतूद करण्यात आली होती की, लिलावाच्या प्रसंगी वित्तीय संस्थानी जिल्हाधिकारी किंवा शासनाने नियुक्त केलेल्या अधिकाऱ्याद्वारे निर्धारित केल्यानुसार अनर्जित उत्पन्नाच्या ५० टक्के रक्कम भरावी लागते. अशा परिस्थितीत अपीलकर्त्यास अनर्जित उत्पन्नाचे रक्कम भरण्याचे अधिकार नाहीत.
- १२) गहाण ठेवण्यापूर्वी सामनेवाला क्र. ५ व ६ ने गहाण किंवा विक्रीच्या कोणत्याही अधिकाऱ्याचा वापर करण्यासाठी ९० दिवासाची पूर्वसूचना शासनास दिली जावी हे कबूल आहे. सामनेवाले क्र. ५ व ६ ने ही अट पूर्ण केलेली नाही. लिलावाद्वारे हस्तांतरण हे सामनेवाले क्र. ५ व ६ केले आहे, अपीलकर्त्याने नाही. सामनेवाले क्र. ५ व ६ बँकेने केलेले हस्तांतरण हे कर्जदारांनी केलेले हस्तांतरण आहे हे मानता येणार नाही. आणि सामनेवाले क्र. ५ व ६ यांनी गहाणखताद्वारे अशी वैधानिक कारवाई केली आहे, असे मानले पाहिजे. अशा परिस्थितीत लिलाव खरेदीदाराने सामनेवाले क्र. २ ते ४ यांनी आहे जसे आहे तेथे आहे त्या परिस्थितीत मालमत्ता खरेदी केली आहे, असे मानावे लागेल. सामनेवाले क्र. ५ ने दिनांक १०.१२.२०१८ रोजी जारी केलेल्या लिलावाच्या सूचनेद्वारे स्पष्ट होते. लिलावाच्या नोटीशीमध्ये विशेषतः नमूद केले आहे की, लिलाव खरेदीदाराने विचाराधीन मालमत्तशी संबंधित सरकारी कर आणि शुल्काची सर्व देय रक्कम भरणे आवश्यक आहे. जिल्हाधिकारी यांनी कलम ११(९)



११/११/११

36

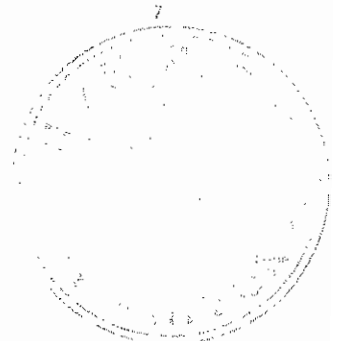
मध्ये गहाणाबद्दल नमूद केलेले निष्कर्ष चूकीचे आहेत. कारण अपीलकर्त्याने कोणतेही हस्तांतरण केलेले नाही आणि बँकानी जमीनी लिलाव करण्यापूर्वी शासनाची किंवा जिल्हाधिकारी यांची परवानगी घेतली नसल्याने अपीलकर्त्यावर कायदेशीर बंधन नाही. महाराष्ट्र जमीन महसूल अधिनियम, १९६६ चे कलम ७२ व २६४ चा लावलेला संदर्भ चूकीचा आहे.

१३) अपीलकर्त्याच्या भाडेपट्ट्याच्या हक्काविरुद्ध या जमीनीवर किंवा अपीलकर्त्याच्या मालकीच्या राहिलेल्या उर्वरित मजल्यांवर कोणत्याही प्रिमियमची आकारणी पूर्णपणे अनुज्ञेय नाही. अशा मालमत्तेवर शुल्क आकारले जाते ज्याचा लिलाव केला जातो आणि उक्त जमीनीवर किंवा अपीलकर्त्याच्या मालकीच्या इमारतीच्या उर्वरित भागावर नाही. इमारतीच्या ठराविक मजल्यांचा लिलाव करणे हे सदर जमीनीतील भाडेतत्त्वाचे हक्क हस्तांतरित करण्यासारखे ठरू शकते, हे जिल्हाधिकारी म्हणणे चूकीचे आहे. कॅनरा बँक आश्रम रोड विरुद्ध जिल्हाधिकारी स्टॅम्स हा निर्णयावर जिल्हाधिकारी विसंबून राहिले आहेत, ते चूकीचे आहे. तो निकाल प्रकरणी लागू होत नाही.

१४) जिल्हाधिकारी यांना प्रकरणामध्ये कोणताही प्रिमियम किंवा अनर्जित उत्पन्न आकारण्याच्या शासनाच्या धोरणाबद्दल खात्री नसेल तर त्यांनी शासनाकडून मार्गदर्शन मागविणे आवश्यक आहे. परिच्छेद ७ मधील काढलेली सर्व निरीक्षणे चूकीची आहेत. यात वैधानिक तरतूदीची संपूर्ण दिशाभूल करण्यात आली आहे आणि सामनेवाल्यास २ ते ६ ची बाजू घेण्याच्या उद्देशाने चूकीचे निष्कर्ष काढलेले आहेत. परिच्छेद क्र. ८ मधील निरीक्षणे चूकीची आहेत. इमारतीच्या संरचनेच्या संदर्भात गहाण ठेवण्यासाठी कोणतीही परवानगी घेण्याची आवश्यकता नाही. म्हणूनच जिल्हाधिकारी यांना अपीलकर्त्याने बेकायदेशीर कृत्य केले असे मानता येणार नाही. जिल्हाधिकारी यांनी परिच्छेद क्र. ५ व ६ मधील सर्व निरीक्षणे चूकीची आहे. सामनेवाले क्र. ५ आणि ६ बँकाना ही जमीन सरकारी भाडेतत्त्वावर देण्यात आली आहे याबद्दल संपूर्ण माहिती होती. बँकानी लिलावापूर्वी शासनाची/ जिल्हाधिकारी यांची पूर्वपरवानगी घेणे आवश्यक होते, तथापी त्यात ते अपयशी ठरले आहेत. अशा परिस्थितीत लिलावाबाबत शासन/ जिल्हाधिकारी यांना माहिती देण्यास अपीलकर्त्याने चूक केल्याचा जिल्हाधिकारी यांचे स्पष्टीकरण विपरीत आहे.

१५) दिनांक २७.०२.२००९ चे परिपत्रका नूसार जेव्ही बँकेद्वारे लिलाव विक्री केली जाते, तेव्हा लिलाव खरेदीतून प्राप्त होणारी रक्कम सरकारचे प्रथम शुल्क असते. सामनेवाले क्र. ५ व ६ ने लिलाव आयोजित करताना आणि सामनेवाले क्र. १ ने कोणतेही वैध कारण नसताना अपीलकर्त्यास दंड ठोठावण्यात चूक केली आहे. सामनेवाले क्र. ५ व ६ बँकेना संपूर्ण माहिती असूनही त्यांनी सामनेवाले क्र. २ ते ४ यांचे लाभात फसवा लिलाव केलेला आहे. सामनेवाले क्र. ५ व ६ ने सामनेवाले क्र. २ ते ४ कडून मोबदला प्राप्त केल आहे. त्यामुळे सामनेवाले क्र.

एलएनडी/४९४/२०२२



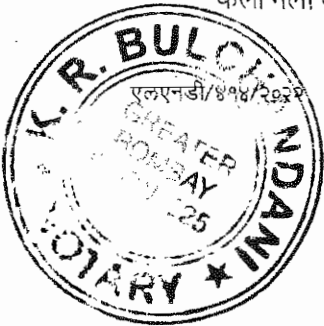
37

५ व ६ तसेच सामनेवाले क्र. २ ते ४ हे कोणतेही अनर्जित उत्पन्न भरण्यास पात्र आहेत. अपीलकर्ता अशा देयकासाठी जबाबदार असणार नाही.

- १६) जिल्हाधिकारी यांनी सामनेवाले क्र. २ ते ४ यांची बाजू घेऊन ते कोणत्याही अनर्जित उत्पन्नापासून वाचतील हे पाहण्यासाठी आदेश दिले आहेत. अपीलकर्त्यांवर कोणतेही अनर्जित उत्पन्न नव्हते किंवा देय होते, असे असताना सामनेवाले क्र. २ ते ४ हे खरेदीदार असून त्यांनी खुलेपणाने लिलावात मिळकत खरेदी केली असल्याने उक्त आदेशाने अपीलकर्त्यांवर त्याची जबाबदारी टाकत आहेत. सध्याचे अपील प्रलंबित असताना अपीलकर्त्यांच्या कार्यालयाचा परीसर सामनेवाले क्र. १ ने सील केला आहे. पक्षपातीचा अवलंब करून सामनेवाले क्र. २ ते ४ चा परीसर सील केलेला नाही. सदर मालमत्ता ही भाडेपट्टा जमीनीचा भाग आहे. जिल्हाधिकारी, मुंबई उपनगर यांचे आदेश कायदया, सहविवेक बुद्धीच्या तत्त्वाच्या विरोधात आहे. तरी सदर आदेश रद्द करण्यात यावेत. सामनेवाले क्र. २, ३ व ४ यांचे युक्तीवादातील सारांश खालीलप्रमाणे आहे.

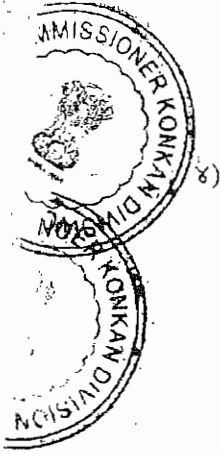
- १) सामनेवाले क्र. ५ व ६ व्दारे आर्थिक मालमत्तेचे सिक्स्युरिटायझेशन आणि पुर्नबांधणी आणि अंमलबजावणी कायदा, २००२ अन्वये सामनेवाले हे वाद मालमत्तेच्या पूर्ण किमतीचे खरेदीदार आहेत. सदरची सर्वे नं. ३४१-ए क्षेत्रफळ ४५१५ चौ.मी. ही मिळकत ही आरएनएन कॉर्पोरेशन पार्क म्हणून ओळखल्या जाणा-या बिल्डींगमध्ये, जिल्हाधिकारी कार्यालया जवळ, बांद्रा येथे स्थित आहे. सामनेवाले क्र. ५ आणि ६ ने विक्रीस मान्यता दिलेली असून अपीलकर्ता व सामनेवाले क्र. १ ला याची माहीती होती. त्यामुळे अपीलार्थी व सामनेवाले क्र. १ यांच्यातील विवादात सामनेवाला यांचा संबंध नाही. परीणामी अपीलार्थी, सामनेवाले क्र. १ किंवा सरकारी ठराव, लीज कराराने उद्भवणारे कथित दायित्व, परिपत्रके हे अपीलार्थी सामनेवाले क्र. ५ व ६ यांचेशी संबंधीत असून सामनेवाले याचेवर बंधनकारक नाहीत.

- २) अपीलार्थी व महाराष्ट्र शासन यांचेतील भाडेपट्टा कराराच्या कलम ११(७) मध्ये बांधकामाचे हस्तांतरणा बाबत सामनेवाले क्र. १ लिखित पूर्व संमतीची अट येथे लागू होत नाही. सामनेवाले क्र. ५ व ६ ने केलेली विक्री ही सरफेसी कायदयातील तरतूदीचे पालन करण्यत आली आहे. सामनेवालेचे याचे लाभात झालेली विक्री व त्यांना देण्यात आलेली विक्री प्रमाणपत्र पूर्ण कायदेशीर असून अपीलार्थीवर बंधनकारक आहे. अपीलार्थी सामनेवाले यांचे लाभात झालेली विक्री पुन्हा उघडण्याचा प्रयत्न करीत आहेत, हे अनुज्ञेय नाही. मिळकतीची विक्री ही संगनमताने आणि फसवी कारवाई होती याबाबत अपीलकर्त्यांने ठोस पुरावा दिला पाहीजे. अपीलकर्त्यांने मिळकतीच्या संदर्भात त्याच्यावर देय अलेल्या दायित्वांमध्ये चूक केली होती. मिळकतीच्या संदर्भात विक्री करारातून उद्भवलेल्या देयकाचा विचार सामनेवाले क्र. ५ व ६ ला देय असलेल्या थकबाकीच्या रक्कमची पूर्तता करण्यासाठी केला गेला आहे. यामुळे अपीलकर्त्यांचे कोणतेही नुकसान संभवत नाही.



37

- ३) सामनेवाले क्र. १ ने जारी केलेल्या दिनांक २९.०८.२०१९ च्या कारणे दाखवा नोटीशी मधील मजकूर सामनेवाले क्र. ५ व ६ द्वारे मिळकतीच्या संदर्भात आयोजित केलेल्या लिलावाच्या मर्यादेपर्यंत नाकारण्यात येत आहे. भाडेपट्टा कराराच्या कलम ११(७) नुसार अपीलकत्याने उक्त मिळकतीचे परस्पर तारण किंवा परस्पर गहाण/ हस्तांतरण करण्याचा प्रयत्न केल्यास सामनेवाले क्र. १/७ च्या लेखी संमतीची आवश्यकता नाही. दिनांक २७.०२.२००९ शासन निर्णयात देखील नमूद केले आहे की, उक्त जमीन गहाण ठेवण्यासाठी परवानगी घेणे आवश्यक आहे. या ठरवाच्या अटी मिळकतीतील युनिटस हस्तांतरित करण्यासाठी लागू नाहीत. उक्त इमारतीतील युनिटसच्या संदर्भात लिलाव झाला आहे हे लक्षात घेऊन ई लिलाव आणि युनिटसच्या विक्री संदर्भात परवानगी आवश्यक नाही. सरफेसीच्या तरतूदी नुसार सामनेवाले क्र. ५ आणि ६ ने लिलाव आयोजित करण्यात आला होता, त्यामुळे मिळकतीची विक्री वैध, कायदेशीर होती. त्यामध्ये लीज करारातील अटीचा भंग झालेला नाही. दिनांक ०४.०९.१९९७ चे आदेश, ०१.०१.१९९८ चा आदेश आणि भाडेपट्टा कराराच्या तरतूदी लक्षात घेता सामनेवाले यांचे लाभात झालेली विक्री हे काणेत्याही कायदयाचे उल्लंघन नाही. सदर विक्री कायदेशीर असून सामनेवालेचे हक्क, शिर्षक कायम आहे. भाडेपट्टा करार किंवा शासन ज्ञापन/ आदेशाच्या उल्लंघनामुळे उद्भवणारे दायित्व हे अपीलकर्ता आणि सामनेवाले क्र. ५ व ६ यांचेच आहे.
- आव्हानीत आदेशामध्ये मान्य करण्यात आले आहे की, १. दिनांक १५.११.२००१ पासून दोन वर्षात बांधकाम केलेले नाही २. भाडेकराराची रक्कम अदा केलेली नाही ३. दिनांक ०४.०९.१९९७ आणि सामनेवाले क्र. १ चे दिनांक ०१.०१.१९९८ चे आदेश ४. गहाण ठेवण्याचे कृत्य व त्यानंतर विक्रीचा लिलाव हे संपूर्णपणे अपीलार्थीवर आहे. त्यामुळे अटीचे उल्लंघन झाल्याने मागणी केलेली रक्कम अपीलार्थी कडून वसूल करणे आवश्यक आहे. अपीलार्थी सदर रक्कमेचा भरणा करण्यास अयशस्वी ठरला तर शासन आदेशाचे/ सामनेवाले क्र. १ ची संमती मिळण्याच्या मर्यादेचे उल्लंघन केल्याने सामनेवाले क्र. ५ व ६ कडून वसूली करण्यात यावी. सरफेसी कायदया नुसार विक्री करताना अपीलार्थी व सामनेवाले क्र. ५ व ६ यांनी पूर्व परवागनी घेणे आवश्यक होती याची सामनेवाले यांना माहिती होती हे मान्य नाही. लीज कराराच्या अटी नुसार आणि सामनेवाले क्र. ५ व ६ यांच्या सादरीकरणावर विसंबून सामनेवाले यांनी संपूर्ण रक्कम अदा करून मिळकतीचे खरेदीदार झाले आहेत. आव्हानीत आदेशाने अपीलार्थीवर लादण्यात आलेले दायित्व हे संहितेच्या तरतूदीशी सुसंगत असल्याचे दिसून येते.
- ५) ई लिलाव हा सरफेसीच्या तरतूदी नुसार पारदर्शक पध्दतीने पार पडला असून सामनेवाले यांनी लिलावात कायदेशीररित्या भाग घेतलेला आहे. तदनंतर त्यांना यशस्वी बोलीदार म्हणून घोषित करण्यात आले होते. अपीलार्थी हे सामनेवाले क्र. ५ व ६ ला देय असलेली थकबाकी भरण्यास अयशस्वी झाल्यामुळे सामनेवाले क्र. ५ व ६ ला मिळकतीची विक्री करण्यास भाग



एलएनडी/४९४/२०२२

*[Handwritten signature]*



39

पडले आहे. त्यामुळे आव्हानीत आदेश योग्य आहेत. मिळकतीच्या संदर्भात अनर्जित रकम भरणे हे केवळ अपीलार्थीचे दायित्व आहे. आव्हानीत आदेशा अंतर्गत मागणी केलेली रक्कम अपीलार्थी अयशस्वी ठरला तर सदर जमीनी बाबत पुर्नकार्यवाही करू नये. अशी कार्यवाहीसुरू झाल्यास सामनेवालेचं गंभीर नुकसान होईल. अपीलार्थीने सामनेवाले समवेत परवाना करार अंमलात आणल्याने सामनेवाले यांना परवाना आधारावर मिळकत वापरण्याची परवानगी दिली होती. त्यानुसार मिळकतीच्या संदर्भात कोणतेही भाडेकरू तयार केलेला नाही. त्यामुळे या संदर्भात मागणी केलेली रक्कम अपीलकर्त्या कडून वसूल करण्यात यावी.

- ६) वरील गोष्टींचा पूर्वग्रह न ठेवता, सामनेवाले यांनी मिळकत खरेदी केल्यामुळे ते दिनांक १८.०३.२०१९ पासून (मिळकत खरेदी केल्याचे दिनांक पासून) थकबाकी शासनास/ सामनेवाले क्र. १ कडे भरण्यास तयार आहेत. तथापी सामनेवाले यांना दिनांक १८.०३.२०१९ पूर्वीचे भाडे भरण्याचे निर्देश देणे हे अवास्तव व अकारण ठरेल. कारण त्यापूर्वी सामनेवाले यांचा हक्क मिळकतीवर नव्हता. तरी अपीलकर्त्यांचे अपील फेटाळण्यात यावे.
- सामनेवाले क्र. ५ याचे युक्तीवादातील सारांश खालीलप्रमाणे आहे.
- १) सामनेवाले क्र. १ समोरची कार्यवाही ही अपीलकर्ता व सामनेवाले क्र. २ ते ६ मधील विरोधी कार्यवाही नाही. परंतु प्रत्यक्षात अपीलकर्ता आणि सामनेवाले क्र. १ मधील कार्यवाही आहे. सामनेवाले क्र. १ ने आव्हानीत आदेशाने स्पष्ट केले आहे की, अपीलकर्ता हा ०५ डीसेंबर, २००५ च्या भाडे कराराच्या अटी व शर्तीचे पालन करण्यास अयशस्वी ठरला आहे. अपीलकर्त्यास कोणतीही गुणवत्ता नाही. अपीलकर्ता हा सामनेवाले क्र. १ द्वारे दिलेल्या निर्देशाची पालन करण्याची जबाबदारी लिलाव खरेदीदार सामनेवाले क्र. २ ते ४ किंवा बँक म्हणजेच सामनेवाला क्र. ५ व ६ यांचेवर ढकलण्याचा प्रयत्नात असल्याचे दिसून येते.
- २) सामनेवाला क्र. १ ने मा.गुजरात उच्च न्यायालयाने कॅनरा बँक आश्रम रोड विक्री जिल्हाधिकारी, स्टॅम्स या निर्णयाचा दाखला दिलेला आहे, सदर निर्णय प्रकरणी लागू झाला आहे. सामनेवाले क्र. १ ने अपीलकर्त्यास अनर्जित रक्कम व लिलावाने विक्री होणाऱ्या मालमत्ते बाबत हस्तांतरण शुल्क भरण्याच्या सूचना दिल्या आहेत. त्यामुळे अपीलकर्त्या कडून अनर्जित रक्कम व हस्तांतरण शुल्क वसूल करणे आवश्यक आहे. सामनेवाले क्र. १ ने अपीलकर्त्यावर आर्थिक दंड ठोठावणारा सुसंगत आदेश पारीत केला आहे. लिलाव खरेदीदार सामनेवाले क्र. २ ते ४ हे आरोपांशी तेच संबंधित आहेत. त्यास सामनेवाले क्र. ५ कडून कोणताही विशिष्ट नकार हमी देता येत नाही.
- ३) अपीलकर्त्याने विवाद मालमत्ता गहाण ठेवण्यापूर्वी सामनेवाला क्र. ५ ने सामनेवाले क्र. १ ची पूर्वपरवानगी घेणे अपेक्षित होते ही बाब सामनेवाला क्र. ५ ला मान्य नाही. सामनेवाला क्र. ५ हा अपीलकर्ता आणि सामनेवाला क्र. १ यांच्यात अंमलात आलेल्या भाडेपट्टा कराराचा भाग नाही. सामनेवाला क्र. ५ चे सरफेसी कायदा, २००२ अंतर्गत आपले अधिकार वापरले आहेत.



20/11/2022

40

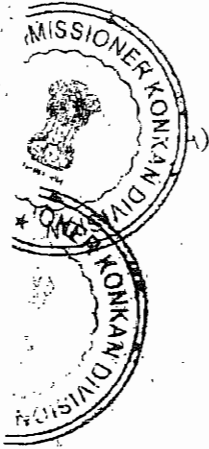
त्याअन्वये बँक वित्तीय संस्थेला कोणत्याही हस्तक्षेपा शिवाय सुरक्षीत मालमत्तेची न्यायालयाचे किंवा न्यायाधिकरणाचे हस्तक्षेपा शिवाय अंमलबजावणी करता येते. किंबहुना अपीलकर्त्यांनी सामनेवाले क्र. ५ द्वारे केलेल्या विक्रीस सिक््युरिटायझेशन अर्ज दाखल करून आकान देण्याचा अयशस्वी प्रयत्न केला आहे. दिनांक २७.०२.२००९ च्या शासन निर्णयानुसार बँका सामनेवाले क्र. ५ हे लिलावाद्वारे विक्री केल्यावर अनर्जित उत्पन्न भरण्यास जबाबदार आहेत, हे सामनेवाले यास मान्य नाही. याबाबत पुनरुच्चार करण्यात येतो की, सदर कार्यवाही ही अपीलकर्ता व सामनेवाला क्र. ५ यांच्यातील विरोधी कार्यवाही नाही. सामनेवाले क्र. १ ने ७ डीसेंबर, २०१९ आणि २२ फेब्रुवारी, २०२१ च्या कारणे दाखवा नोटीशीमध्ये दिनांक २७ फेब्रुवारी, २००९ च्या शासन निर्णयातील तरतूदीचे उल्लंघन केल्याचा आरोप केलेला नाही.

- ४) शासनाचे ठरावाना कोणतेही वैधानिक बल नाही किंवा ते केवळ कार्यकारी सूचनेचे स्वरूप आहेत, हे विधान सामनेवाले क्र. ५ ला मान्य नाही. कॅप्शनमध्ये दिलेले विवेचन परस्पर विरोधी आहेत. एकीकडे अपीलकर्त्यांनी असा आरोप केला आहे की, सामनेवाले क्र. ५ ने दिनांक २७.०२.२००९ च्या शासन निर्णयाच्या तरतूदीचे उल्लंघन केले आहे, तर दुसरीकडे त्यांचे म्हणणे आहे की, सरकारी निर्णयास कोणतेही वैधानिक बल नाही.

१ जानेवारी, १९९८ च्या आदेशा नुसार वित्तीय संस्थेने धकित भाडे भरणे आवश्यक आहे तसेच वित्तीय संस्था अनर्जित उत्पन्नाच्या ५० टक्के रक्कम भरण्यास जबाबदार आहे, हे सामनेवाले क्र. ५ यास मान्य नाही. कारण कारणे दाखवा नोटीशीत १ जानेवारी १९९८ च्या कोणत्याही आदेशाचे उल्लंघन केल्याचा आरोप नाही. सरफेसी कायदा स्पष्ट सांगतो की, सुरक्षीत धनको ताब्यात घेतल्या नंतर हस्तांतरीत केलेली मालमत्ता ही मालकाने हस्तांतरीत केलेली मानली जावी. सामनेवाले क्र. ५ वर कोणतेही प्रिमियम किंवा हस्तांतरीत शुल्क आकारले जाणे आवश्यक आहे, हे मान्य नाही. गुजरात उच्च न्यायालयातील कॅनरा बँक २०१३ एससीसी गुजरात ८६९२ मध्ये असे मानले आहे की, सुरक्षीत व्यक्तीने केलेली कोणतीही विक्री कर्जदाराच्या वतीने आहे. सदर निर्णय सध्याच्या प्रकरणातील वस्तुस्थितीला पूर्णपणे लागू आहे. सरफेसी कायद्याची अंमलबजावणी करताना सामनेवाले क्र. १ ची मंजूरी आवश्यक असल्याची बाब सामनेवाले क्र. ५ ला मान्य नाही. अपीलार्थीस कोणतीही सबलत देण्याची मागणी करण्यास अपीलार्थी हा अयशस्वी ठरला आहे, तरी अपीलार्थीचे अपील फेटाळण्यात यावे.

सामनेवाले क्र. ६ याचे लेखी युक्तीवादातील सारांश खालीलप्रमाणे आहे.

- १) अपीलातील मजकूर आणि उत्तर देणा-या सामनेवाले यांचेवर केलेले आरोप सामनेवाले मान्य करीत नाही. सामनेवाले याची अपीलार्थी व इतर सामनेवाले यांचेतील वादात भूमिका मर्यादीत स्वरूपाची आहे. सामनेवाले क्र. ६ ने सरफेसी कायदा अंतर्गत उपलब्ध कायदेशीर



एलएनडी/४९४/२०२२

11

BRM



41

उपायानुसार त्यांची आर्थिक देणी वसूल करणेसाठी पावले उचलली आहेत. म्हणून कथित दोषासाठी त्यांना जबाबदार धरता येणार नाही.

- २) अपीलकर्ता हा सामनेवाले क्र. ६ यांचेशी ५५.०० कोटी मुदत कर्ज मंजूर करण्यासाठी संपर्क साधलेला होता. त्यांचे विनंती नुसार त्यांचे प्रस्तावाचा विचार करून त्यांना ५५.०० कोटी कर्ज दिनांक २२.०१.२०१३ रोजीचे पत्रात नमूद केलेल्या अटीनुसार देण्यात आले होते. उक्त ५५.०० कोटीचे कर्ज सुरक्षीत करण्यासाठी अपीलकर्त्याने विविध दस्तऐवज अंमलात आणले होते. जसे की १. आरएनए कॉर्प प्रा.लि. आणि महाराष्ट्र थिएटर प्रा.लि. आणि अलाहाबाद बँक यांचेतील मुदत कर्ज करार २. सुधारीत आणि पुनर्स्थित करार मुदत कर्ज दिनांक ३०.०१.२०१३ ३. दिनांक ३१.०१.२०१३ व ०९.०३.२०१३ रोजीचे गहाणपत्राचे इडेंचर करार.
- ३) दिनांक ०५.१२.२००५ रोजीचे भाडेपट्टा कराराने महाराष्ट्र थिएटरला सिनेमा थिएटर बांधकामासाठी ९९ वर्षासाठी भाडेपट्टा मंजूर करण्यात आला होता. उक्त लीज कराराच्या संदर्भात पट्टेदाराला उक्त जमीनीवर बांधण्यात येणारी संरचना बँका व वित्तीय संस्थाकडे गहाण ठेवण्याची परवानगी दिलेली होती. अपीलकर्त्याने मंजूर केल्याप्रमाणे कर्जाची परतफेड करण्यास चूक केली असल्याने रिझर्व बँकेच्या मार्गदर्शक तत्त्वानुसार अपीलकर्त्याचे खाते एनपीए घोषित करण्यास सामनेवाले क्र. ६ ला बंधनकारक होते. सामनेवाले क्र. ६ ने सरफेसी कायदया अंतर्गत पावने उचलली होती आणि उक्त मालमत्तालिलावाने सामनेवाले क्र. २ ला १,२८,००,०००/- रूपयाला विकली होती. त्याबाबत सामनेवाले क्र. ६ ने २९.०३.२०१९ रोजी सामनेवाले क्र. २ चे नावे विक्री प्रमाणपत्र जारी केले होते. व लिलाव खरेदीदारास या मालमत्तेचा ताबा दिला होता. सरफेसी कायदा, २००२ च्या तरतूदी नुसार सुरू करण्यात आलेली कार्यवाही कायदया नुसार आहे. अपीलकर्त्यास ते मान्य नसल्यास त्यास आव्हान देऊ शकले असते. सामनेवाले क्र. ६ ने मिळकतीचा ताबा दिनांक १८.०८.२०१६ रोजी घेतलेला आहे. चौथा, पाचवा आणि तळमजला या मालमत्तेचा भौतिक ताबा मा.उच्च न्यायालय, मुंबई यांचेकडील रिट याचिका क्र. २५०४/२०१८ मध्ये दिनांक १२.१०.२०१८ रोजी दिलेल्या आदेशा नुसार घेण्यात आला आहे. सामनेवाले यांनी २००२ च्या सरफेसा कायदया अंतर्गत मालमत्ता/ संरचनेची विक्री केलेली आहे. त्यामुळे विक्री लिलाव हा कायदयाच्या तरतूदी नुसार वैध आहे. सामनेवाला क्र. ६ हा सुरक्षीत कर्जदार असल्याने सुरक्षीत मिळकतीचा ताबा घेऊन सार्वजनिक पैसे वसूल करण्यासाठी मालमत्ता/ संरचना योग्यरित्या विकली आहे. सरफेसी कायदा, २००२ च्या तरतूदी सध्या अंमलात असलेल्या इतर सर्व कायदयांना वरचढ ठरतात आणि जर कोणत्याही पक्षाला सुरक्षीत कर्जदाराने केलेल्या कारवाईमुळे त्रास होत असेल तर ते मदतीसाठी योग्य न्यायालयात संपर्क साधू शकतात.
- ४) सामनेवाले क्र. ६ चे विरूद्ध येथे उपस्थित केलेले वाद वैध आणि योग्य नाहीत. सध्याचे अपील हे मुळात अपीलकर्त्याला दिलेल्या बांधकाम परवानगीचे उल्लंघन केल्याबद्दल आणि सामनेवाले क्र. १ द्वारे निश्चित केलेल्या वेळेच्या मर्यादेत ते पूर्ण न केल्याबद्दल

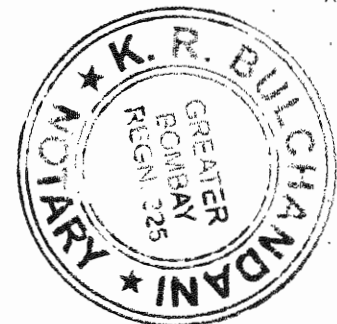
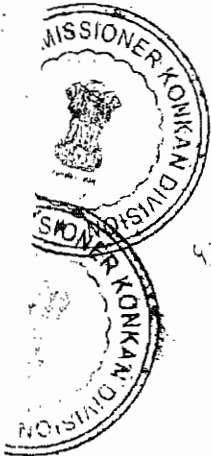




42

अपीलकर्त्यावर आकारण्यात येत असलेल्या दंडाच्या आकारणीला आव्हान देण्यासाठी आहे. त्यामध्ये लीज डीडच्या उल्लंघनाचा संबंध आहे. सामनेवाला क्र. ६ यात पक्षकार नाही. सदर अपील हे अपालकर्ता व सामनेवाला क्र. १ मधील आहे. उक्त लीज डीडच्या कलम ११(७) नुसार, कोणत्याही वित्तीय संस्थेकडून किंवा बँकेकडून कोणतीही आर्थिक मदत मिळवण्यासाठी उक्त जमीन गहाण ठेवली जात असताना सामनेवाला क्र. १ ची परवानगी आवश्यक होती. सदर कलमात असे नमूद केले आहे की, जर भाडेपट्टयाने सदर जमीन किंवा उक्त जमीनीचा काही भाग कोणत्याही वित्तीय संस्थेला किंवा कोणत्याही सावकाराला विकत असल्यास किंवा हस्तांतरित करणे किंवा गहाण ठेवत असल्यास शासनाची पूर्वपरवानगी/ संमती लिखित स्वरूपात आवश्यक आहे. गहाण ठेवण्याच्या किंवा असाईनमेंटच्या किंवा उक्त जमीनीवर बांधलेली संरचना किंवा कोणतेही युनिटच्या हस्तांतरणाच्या प्रकरणामध्ये सदर कलम लागू होत नाही. प्रस्तूत प्रकरणी युनिटस किंवा संरचना सामनेवाले क्र. ६ कडे गहाण ठेवण्यात आलेल्या आहेत. त्यामुळे सामनेवाले क्र. १ कडून सामनेवाले क्र. ६ कडे गहाण ठेवण्यात आलेल्या युनिटस बाबत गहाण ठेवण्यासाठी परवानगीची आवश्यकता नाही. सामनेवाले क्र. १ हे दिनांक ०४.०९.१९९७ च्या कार्यलयीन ज्ञापनावर विसंबून आहेत. ज्यामध्ये कर्ज देणा-या वित्तीय संस्थेने भूखंडा किंवा भाडेपट्टयांचे हक्क किंवा त्याचा कोणताही भाग विकताना कोणती पावले उचलली पाहिजेत आणि त्याबाबत रक्कमा याविषयी नमूद केले आहे. या ज्ञापनात अशी तरतूद आहे की, जमीनीची विक्री, हस्तांतरण, असाईनमेंट, लीज, गहाण यांवर अनर्जित उत्पन्न देय होते.

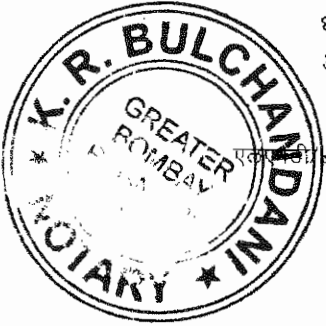
भाडेपट्टा कराराची कलम तसेच शासनाने सदर जमीनीच्या भूखंडा संदर्भात जारी केलेले कार्यलयीन ज्ञापन लक्षात घेऊन, सामनेवालेचे बाजूने परवानगी, लिज जमीनीतील युनिटस आणि बांधकाम गहाण ठेवण्यापूर्वी परवानगी आवश्यक नव्हती. अपीलकर्त्याने उत्तर देणा-या सामनेवाले कडून घेतलेल्या कर्जाची आणि आर्थिक सुविधांची परतफेड करण्यास कसूर केली आहे. त्यामुळे सरफेसी अंतर्गत त्यांच्या विरूद्ध कारवाई केलेली आहे. सरफेसी कायदा. २००२ अंतर्गत उत्तर देणाऱ्या सामनेवाले यांनी स्वीकारलेल्या कार्यवाहीमुळे अपीलकर्त्यास त्रास झाला असेल तर त्यांनी सदर कृतीस आव्हान देण्यासाठी योग्य पावले उचलली पाहिजेत. सदरचा वाद या मंचासमोर उपस्थित करून ज्याचा त्याच्याशी काही संबंध नाही, हे माननीय अधिका-याची दिशाभूल करण्याचा प्रयत्न करण्या शिवाय काहीच नाही. सध्याच्या प्रकरणात फक्त रचना गहाण ठेवली आणि विकली गेली आहे, त्यामुळे दिनांक २७.०२.२००९ चे परिपत्रक लागू होत नाही. दिनांक २७.०२.२००९ च्या शासन निर्णयात नमूद तरतूदी तसेच कलम ११(७) नुसार लीज करार लक्षात घेता सामनेवाले क्र. ६ ने कोणतेही उल्लंघन केलेले नाही. त्यांना सामनेवाले क्र. १ कडून कोणतीही परवानगी घेण्याची आवश्यकता नव्हती. आणि जर अशी कोणतीही आवश्यकता असेल तर अपीलकर्ता त्याचे पालन करण्यास जबाबदार असेल. जोपर्यंत सरफेसी अंतर्गत कारवाईचा संबंध आहे, त्या सार्वजनिक



43

डोमेनमध्ये होत्या आणि अपीलकर्त्यास त्याबद्दल माहीती होती. उत्तर देणा-या सामनेवाले यांचेवर कोणतेही उत्तरदायित्व लादता येणार नाही. ते योग्यच आहे, म्हणून सामनेवाले यांनी त्यांच्याकडून तशी मागणी केलेली नाही.

- ६) मालमतेच्या लिलावामध्ये सामनेवाले याचे नावे गहाण ठेवलेल्या आणि लिलावात सामनेवाले क्र. २ ला विकल्या गेलेल्या संरचनेचा समावेश आहे. शासन निर्णय आणि लीज करार मध्ये दिलेल्या तरतूदी लक्षात घेता अपीलकर्त्याला आर्थिक सुविधेसाठी कोणतेही गहाण ठेवण्यापूर्वी शासनाच्या पूर्वपरवानगीची आवश्यकता नव्हती. वरीलप्रमाणे प्रकरण लक्षात घेता मा.अधिका-या समोर नम्रपणे प्रार्थना करण्यात येते की, सामनेवाले क्र. ६ (इंडीयन बँक) यांना न्यायतेच्या हितीसाठी चालू प्रकरणातून वगळण्यात यावे.
- ७) बँकेच्या सामनेवाला क्र. ६ च्या सुरक्षीत देय रक्कमेला राज्य सरकारच्या धकबाकी पेक्षाही प्रधान्य आहे. ज्यामध्ये जमीन महसूल संहिते खाली वसूलीचा समावेश आहे. सदरची बाब मा.उच्च न्यायालयाने विविध आदेशाने मान्य केली आहे. १. स्टेट बँक ऑफ इंडीया विरुद्ध महाराष्ट्र शासन (केस क्र. २०२० एससीसी ऑनलाईन बॉम ४१९०) २. युनियन बँक ऑफ इंडीया विरुद्ध महाराष्ट्र शासन (केस क्र. २०२१ एससीसी ऑन लाईन बॉम. ६०७०) ३. एडलेवाईज असेट रिक्स्ट्रक्शन कंपनी लि. विरुद्ध टॅक् रिक्वरी डीपार्टमेंट व इतर (केस क्र. २०२१ एसएससी ऑन लाईन) बॉम. १३११ ४. जळगाव जनमा सहकारी बँक लिमिटेड व इतर विरुद्ध जॉईंट कमिशनर ऑफ सेल्स टॅक्स नोडल ९, मुंबई (रिट पिटीशन क्र. २०२२ एससीसी ऑन लाईन बॉम. १७६७)
- ८) नोंदणीकृत गहाणखत अंतर्गत सामनेवाले क्र. ६ चे हीत सुरक्षीत केले जात असल्याचे सामनेवाले क्र. ६ उपरोक्त तरतूदी खाली समाविष्ट होत आहे. त्यांच्याद्वारे आयोजित केलेल्या लिलावात गहाण ठेवलेल्या मालमतेच्या विक्रीतून मिळालेल्या रक्कमेची वसूली अपीलार्थी हे कर्जाची रक्कम भरण्यास अयशस्वी झाल्याने कायदया नूसार करण्यात आलेली आहे. सरफेसी कायदा, २००२ च्या तरतूदी हया इतर सर्व कायदयांना वरचढ ठरतात. त्यामुळे सामनेवाले क्र ६ द्वारे केलेली कृती कायदयाच्या मापदंडामध्ये आहे.
- ९) सरफेसी कायदया अंतर्गत तरतूदीचे पालन करून मालमत्ता लिलावात विकली आहे. त्यामुळे सदर विक्री वैध आहे. सामनेवाला क्र. ६ हा सुरक्षीत कर्जदार असल्याने त्याने सुरक्षीत प्रत्यक्ष ताबा घेऊन सार्वजनिक पैसे वसूल करण्यासाठी मालमत्ता योग्यरित्या विकली आहे. सामनेवाला क्र. १ ने अचूक निष्कर्ष काढला आहे की, सामनेवाले क्र. १ ने त्यांना दिलेल्या भाडेकराराच्या अटीचे पालन करणे ही अपीलकर्त्याची जबाबदारी होती. त्याच्या अपयशाचे श्रेय सामनेवाले क्र. ६ ला देता येणार नाही. कारण बँकेने कायदया अंतर्गत काम करून धकबाकीच्या वसूलीचे कार्य कायदेशीरपणे केले आहे. सामनेवाला क्र. ६ ला कोणत्याही अनर्जित उपन्नासाठी दंड आकारला जाऊ शकत नाही. कारण त्यांनी कोणतेही बेकायदेशीर



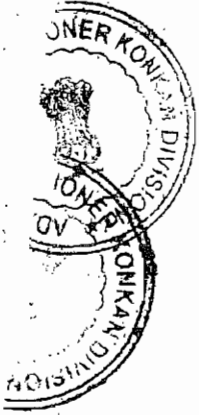
एकसूची ४९४/२०२२

44

कृत्य केले नाही. अपीलकर्ते हेच जबाबदार असून मागणी केलेली रक्कम भरण्यास जे जबाबदार आहेत. तरी अपीलकर्त्यांचे अपील फेटाळण्यात यावे.

अपीलार्थी याचा अपील अर्ज, सामनेवाले क्र. २ ते ४, सामनेवाले क्र. ५ व ६ यांचे लेखी युक्तीवाद, आव्हानीत आदेश, प्रकरणातील कागदपत्रे पाहता खालील बाबी निदर्शनास येतात.

- १) मौजे वांद्रे, ता.अंधेरी सर्वे नं. ३४१ अ मधील ४५१४ चौरस मीटर जमीन १९ वर्षांच्यालिज अग्रीमेटनेसिनेमा थिएटरसाठी महाराष्ट्र थिएटर प्रा.लि. यांना शासन निर्णय दिनांक १८.०६.१९६९ व जिल्हाधिकारी कार्यालयाकडील आदेश क्र. ११.०९.१९६९ अन्वये काही अटी व शर्तीवर प्रदान करण्यात आली होती.दिनांक ०२.०१.१९७० रोजी मिळकतीचा ताबा भाडेपट्टादार यांना देण्यात आला होता.
- २) कंपनीने केलेल्या विनंती नूसार शासनाने दिनांक ०९.०७.१९८१ रोजी जापन जारी केले होते. उक्त जापनान्वये ०.४५ चटईक्षेत्र सिनेमागृहासाठी, ०.१५ चटईक्षेत्र बँक व दुकानाचे गाळे यासाठी रू. ३२७/- चौ.मी. दराने जमीनीच्या किंमतीच्या ५ टक्के भाडेपट्टा तसेच ०.४० चटईक्षेत्र हॉटेलसाठीजमीनीच्या चालू बाजारभावाच्या ८ टक्के भाडेपट्टा आकारून परवानगी देण्यात आली होती.
- ३) दिनांक ३०.०६.१९९४ रोजी महाराष्ट्र थिएटर प्रा.लि. यांनी शासनाने दिनांक ०९.०७.१९८१ रोजी जमीनीच्या वापरात करून दिलेल्या बदलात पुन्हा बदल करून मिळण्याबाबत केलेल्या विनंतीच्या अनुषंगाने विकास नियंत्रण नियमावलीतील तरतूदीस अधीन राहून वाद जमीनीसाठी अनुज्ञेय ठरणा-या चटई क्षेत्रापैकी १० टक्के चटईक्षेत्र चित्रपट गृहाकरीता, १० टक्के चटईक्षेत्र दुकाने तथा बँक याकरीता आणि उर्वरीत ८० टक्के क्षेत्र हॉटेलकरीता वापरण्यास दिनांक ०९.०७.१९८१ च्या आदेशातील अटी/शर्ती तसेच याबाबत जिल्हाधिकारी यांना योग्य वाटतील अशा अतिरिक्त अटीवर देण्यास शासनाने मंजूरी दिली होती. तसेच महाराष्ट्र थिएटर प्रा.लि. यांना मंजूर केलेल्या जमीनीकरीता वरीलप्रमाणे अनुज्ञेय होणा-या चटईक्षेत्राचे १० टक्के, १० टक्के व ८० टक्के अशा प्रकारे विभाजन करण्यासाठी शासनाने मंजूरी दिली.त्यानुसार जिल्हाधिकारी कार्यालयाने दिनांक १९.०७.१९९४ रोजी आदेश दिले होते.
- ४) प्रकरणी शासन जापन दिनांक ०४.०९.१९९७ व दिनांक ०१.०१.१९९८ अन्वये मौजे वांद्रे येथील सर्वे नं. ३४१ अ येथील महाराष्ट्र थिएटर प्रा.लि. यांना प्रदान केलेल्या जमीनीच्या भाडेपट्टयाचे हक्क तारण ठेवण्यास व वाद जमीन आजच्या बाजारभावा प्रमाणे होणा-या किंमती एवढे कमाल मर्यादेपर्यंत कर्ज उभारण्यासाठी कंपनीस अटी व शर्तीवर परवानगी देण्यात आली होती. वर नमूद शासन जापनातील क्रमांक १ ते ५ मध्ये असे नमूद करण्यात आले आहे की, (१) कर्ज देणा-या वित्तीय संस्थेने भूखंड किंवा भाडेपट्टा हक्क वा त्याचा कोणताही भाग विकासास काढला तर पहिला भार म्हणून शासनास पुढील रक्कमा द्याव्या

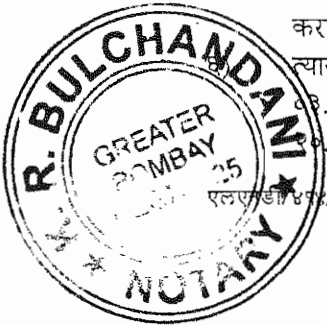


45

लागतील आणि गहाणदार आपल्या भागण्या उर्वरित रकमेतून भागवतील. (अ) भाडेपट्ट्या पोटी थकीत रक्कम असल्यास व करारानाम्यानुसार देय रकमा (ब) उक्त जमिनीच्या विक्रीद्वारे मिळणा-या अनर्जित उत्पन्नाच्या ५०% रक्कम अनर्जित उत्पन्नाची रक्कम ठरविण्याच्या प्रयोजनासाठी जिल्हाधिकारी, मंबई उपनगर जिल्हा किंवा शासनाने त्याकरिता नियुक्त केलेल्या अन्य कोणतेही अधिकारी अशी अनर्जित रक्कम ठरविल व आवश्यक वाटल्यास त्यावळी शासनाचे अदश मिळवेल (२) संबंधित वित्तीय संस्थेला ९० दिवसांची नोटीस दिल्याशिवाय महाराष्ट्र थिएटर चांचेबरोबर करारनामा संपुष्टात केला जाणार नाही. या जमीन पुनर्ग्रहीत करता येणार नाही. हेतू हा की, शर्तभंगाबाबत उपाययोजना करण्याची शक्यता असल्यास तशी उपाययोजना करण्याची संधी वित्तीय संस्थांना उपलब्ध रहावी (३) सदर प्रकरणी वित्तीय संस्थेकडून कर्ज उभारल्यानंतर त्या संस्थेकडील प्रमाणपत्र व त्या कर्जाच्या सुयोग्य वापराबाबतच्या प्रमाणपत्राच्या प्रती शासनास सादर करण्यात येतील (४) महाराष्ट्र थिएटर प्रा.लि. यांनी कोणताही शर्तभंग केलेला नाही याची खात्री जिल्हाधिकारी यांनी करावयाची आहे व कोणताही शर्तभंग जिल्हाधिकारी यांच्या निदर्शनास आल्यास जमीन पुनर्ग्रहीत करण्यात येईल (५) कंपनी ज्या वित्तीय संस्थेकडून कर्ज उभारणी करणार आहे त्या संस्थेचे नाव व करारनामा कंपनीने जिल्हाधिकारी यांना कळविणे बंधनकारक राहिल. अन्यथा हे आदेश गैर लागू होतील.

- ५) अनुज्ञेय प्रयोजनात पुन्हा बदल करून मिळणेसाठी महाराष्ट्र थिएटर प्रा.लि. यांनी केलेल्या विनंतीच्या अनुषंगाने शासन जापन दिनांक ०७.११.२००१ अन्वये विकास नियंत्रण नियमावलीतील तरतूदीस अधीन राहून वाद मिळकतीसाठी अनुज्ञेय चटई क्षेत्रापैकी १० टक्के चटईक्षेत्र चित्रपट गृहाकरीता ९० टक्के चटईक्षेत्र कार्यालये याकरीता दिनांक ०९.०७.१९८१ व दिनांक ३०.०६.१९९४ च्या आदेशातील अटी व शर्ती नुसार परवानगी देण्यात आली होती त्यामध्ये वरीलप्रमाणे परवानगी दिल्यापासून २ वर्षांच्या आत बांधकाम पूर्ण करून प्रत्यक्ष वापर सुरू करण्यात यावा, अशी अट होती. जिल्हाधिकारी कार्यालयाने दिनांक १२.१२.२००३ रोजीच्या आदेशाने पुन्हा नव्याने भुईभाडे निश्चित केले. यामध्ये महाराष्ट्र थिएटर प्रा.लि. यांनी कार्यालयासाठी वापरणेच्या ९० टक्के चटई क्षेत्रासाठी (४०६३.५ चौ.मी.) भाडेपट्ट्याच्या रक्कमे व्यतिरिक्त ५० टक्के अनर्जित रक्कम भरणेची आहे. त्यांनी सदर भूखंड विकसीत करून कार्यालये बांधून त्याचे विक्री, हस्तांतरण, साठेकरार, मुखत्यारपत्र व कोणत्याही प्रकारचे त्रयस्थ व्यक्तीचे संबंध निर्माण करणे, तसेच भाडे/ठेवी या सर्व गोष्टीमधून मिळणा-या अनर्जित रक्कमेपैकी ५० टक्के अनर्जित रक्कम शासनास भरणेत येईल अशी अट अंतर्भूत करण्यात आलेली होती.

त्यानंतर संस्थेने टीडीआर वापरण्यास केलेल्या विनंतीच्या अनुषंगाने शासन निर्णय दिनांक ०३.११.१९९९ व दिनांक ०९.०७.१९९९ मधील तरतूदी नुसार शासन जापन दिनांक ०३.२००२ व जिल्हाधिकारी कार्यालया कडील आदेश दिनांक २२.०४.२००४ अन्वये

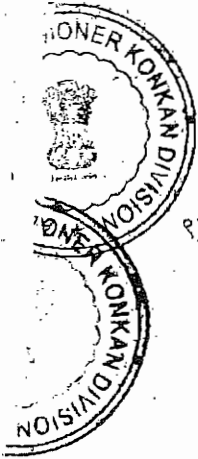


१९/११/२०२२

46

शासकिय भूखंडावर, सदर भूखंडाच्या भाडेपट्टयाच्या किंमतीच्या ३ टक्के दराने तात्पुरते अधिमुल्य आकारून नेहमीच्या अटी व शर्तीवर टिडीआर वापरण्यास परवानगी दिली होती. भाडेपट्टादार संस्थे सोबत दिनांक ०५.१२.२००५ रोजी भाडेपट्टा करारनामा देखील करण्यात आलेला आहे.

- ७) वाद मिळकतीवर केलेल्या बांधकामा मधील ३ रा, ५ वा (काही भाग), ६ वा मजला अनुक्रमे दिनांक १४.०९.२०१२, दिनांक २८.०३.२०१३ व दिनांक २६.०३.२०१४ रोजीच्या गहाणखताद्वारे देना बँकेकडे (बँक ऑफ बडोदा) तसेच सदर बांधकामा मधील बेसमेंट, ४ था व ५ वा मजला (काही भाग) दिनांक ३१.०१.२०१३ रोजीच्या गहाणखताद्वारे अलाहाबाद बँकेकडे गहाण ठेवण्यात आलेला आहे. त्याबाबत शासनाची अथवा जिल्हाधिकारी, मुंबई उपनगर यांची मंजूरी घेतलेली नाही.
- ८) उक्त बँकानी सदर बांधकामे ही ई लिलावाने सामनेवाले क्र. २ ते ४ यांना विक्री केले असून त्याबाबत जिल्हाधिकारी अथवा शासनाची मंजूरी घेतलेली नाही. १. मिड डे इन्फोमिडीया २. मे.व्ही.आर.एस.एम. इंटरप्राईझेस एलएलपी ३. म्युझिक ब्रॉडकास्ट लि. यांनी अनुक्रमे ६ वा. ३ रा व ५ वा मजला हा ई लिलावाने घेतलेला असून तो तारण ठेवण्यासाठी जिल्हाधिकारी, मुंबई उपनगर कार्यालयाकडे विनंती केली असता, जिल्हाधिकारी कार्यालयास भाडेपट्टादार यांनी शर्तभंग केल्याचे निदर्शनास आल्याने त्यांनी दिनांक १३.०७.२०२२ रोजी आदेश पारीत केलं आहेत. सदर आदेशा विरुद्ध अपीलार्थी यांनी अपील क्र.एलएनडी/४१४/२०२२ ने दाद मागितलेली आहे.
- ९) लिज अॅग्रीमेंट करारनामा दिनांक ०५.१२.२००५ मधील अट क्र. (२) व शासन निर्णय दिनांक ०४.०९.१९९७ अन्वये दिलेल्या तारण परवानगी मधील अट क्र. १(ब) चा भंग अपीलार्थी यांनी केल्याने तसेच जापन दिनांक ०७.११.२००१ मधील अट क्र. (अ) नूसार विहित मुदतीत बांधकाम केलेले नसल्याने अपीलार्थीस दिनांक २२.०७.२०२२ च्या आदेशाने शर्तभंग नियमानुकूल करणेसाठी बांधकाम मुदतवाढीची रक्कम रु. २,१५,७७,१८५/- शासनजमा करण्यास आदेशीत केले आहे. तसेच शासन निर्णय दिनांक २५.०५.२००७ मधील जोडपत्र "क" मुद्दा (४) अन्वये जागा भाड्याने/पोटभाड्याने देताना औद्योगिक वापराच्या जागेसाठी परिच्छेद १(अ)मध्ये दर्शविल्यानुसार होणा-या हस्तांतरण फी च्या १०% प्रमाणे आणि वाणिज्यिक वापरासाठी भाड्याने देताना हस्तांतरण फी च्या १२% दराने प्रतिवर्षी अनुज्ञप्ती फी आकारण्यात यावी. तसेच या संदर्भात वेळोवेळी सुधारित करण्यात येणारे आदेश लागू करण्यात यावेत. त्यानंतर हस्तांतरण शुल्क/फी नगण्य स्वरूपात असलेने त्यामध्ये शासनाने सुधारणा करून दिनांक ०७.०७.२०१७ च्या शासन निर्णयाने वाणिज्यिक/औद्योगिक गाळा यांच्या हस्तांतरणाकरिता आकारावयाचे हस्तांतरण शुल्क रु. १०००/- प्रति चौ.फूट किंवा प्रचलित वार्षिक दर विवरणपत्रानुसार येणा-या मूल्यांकनाच्या ६% यापैकी जी रक्कम अधिक असेल ती रक्कम याप्रमाणे निश्चित करावयाचे आहे. त्यामुळे दिनांक ०७.०७.२०१७



एलएनडी/४१४/२०२२

17

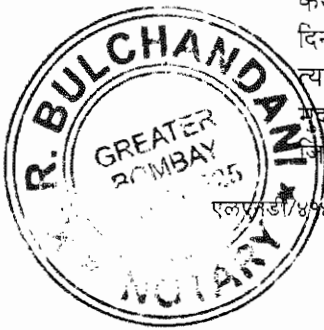
४१४



47

नंतर सुधारित हस्तांतरण शुल्काच्या दरावर १२.५% इतकी पोटभाडयाची रक्कम निश्चित करणे आवश्यक ठरते. भाडेपट्टेदार यांनी पोटभाडयाकरिता अनुज्ञप्ती शुल्क रु. ४७,००,६९४/- प्रमाणे तलाठी कार्यालयात भरणा केलेली असून सदर रक्कम वजा करता दिनांक ०१.०१.२००७ ते ०६.०७.२०२२ पर्यंत अनुज्ञप्ती फी रक्कम रु. ७,१०,७८,२७९/- इतकी येत आहे. ती रक्कम अपिलार्थी योंचेकडून वसूल करणे आवश्यक ठरते, असा निष्कर्ष काढून अपिलार्थी यांना दिनांक ०१.०१.२००७ ते ०६.०७.२०२२ पर्यंतची पोटभाडयाची अनुज्ञप्ती रक्कम रु. ७,१०,७८,२७९/- शासन जमा करण्याबाबत कळविण्यात आलेले आहे. वास्तविक अपिलार्थी यांनी सदर जागा सामनेवाले २ ते ४ यांना लिट्टे अँड लायसेन्सवर दिलेली आहे. त्यामुळे शासनाचा सदर निर्णय अपिलार्थी यांना लागू होतो अगर कसे याबाबत खातर जमा करणे आवश्यक आहे. तसेच याबाबत अर्जदार यांनी शासन निर्णय क्र. एलएनडी/४८५७/१६९१४६-एआय दिनांक २१/११/१९५७ मधील क्र. ४(a) किंवा ४(d)(i) यातील कोणत्या पोटकलमानुसार रक्कम रुपये २,१५,७७,१८५/- भरणा करणे आवश्यक आहे याची खातरजमा करून घेऊन रक्कम भरून घेणे आवश्यक आहे.

- १०) मुदतीत बांधकाम न करणे, भाडेपट्टा न देणे, तसेच वित्तीय संस्थाना तारण देणेकामी अनर्जित रक्कम न भरणे, विनापरवाना हस्तांतरण करणे या बाबत शासन निर्णयात नमूद केलेल्या अटीचे उल्लंघन केल्यामुळे अपीलकर्त्यास शासकिय दंडाची शास्ती आम्हानीत आदेशाने दिल्याचे दिसून येते.
- ११) भाडेपट्टादार यांनी जमीनीच्या वापरात बदल करून मिळणेकामी शासन महसूल व वन विभागाकडे केलेल्या विनंतीच्या अनुषंगाने शासनाने दिनांक ०७.११.२००१ रोजी प्रश्नांकित जमीनीसाठी अनुज्ञेय ठरणा-या चटईक्षेत्रापैकी १० टक्के चटईक्षेत्र चित्रपटगृहा करीता ९० टक्के चटईक्षेत्र कार्यालये याकरीता दिनांक ०९.०७.१९८१ व दिनांक ३०.०६.१९९४ च्या आदेशातील अटी व शर्ती अधीन राहून शासन परवानगी त्यांना प्राप्त झालेली होती. तथापी उक्त दिनांक ०७.११.२००१ मधील अट क्र.(अ) मध्ये परवानगी दिल्यापासून २ वर्षांचे भात बांधकाम पूर्ण करून प्रत्यक्ष वापर सुरू करण्यात यावा, अशी अट ठेवण्यात आलेली आहे. त्यास अनुसरून जिल्हाधिकारी कार्यालयाने दिनांक १२.१२.२००१ रोजी आदेश दिले होते. त्यामुळे दिनांक १२.१२.२००१ पासून २ वर्षे म्हणजेचे दिनांक ११.१२.२००३ पर्यंत अपीलाकर्त्याने बांधकाम पूर्ण करणे अपेक्षित होते. तसे न केल्यास बांधकाम मुदतवाढी बाबत जिल्हाधिकारी किंवा शासनाकडे अर्ज दाखल करून त्यांचेकडून मुदतवाढीची परवानगी प्राप्त करून घेणे अपीलकर्त्यांवर बंधनकारक होते. भाडेपट्टादार महाराष्ट्र थिएटर प्रा.लि. यांना दिनांक ०७.०७.२००६ रोजी महानगर पालिकेकडून पूर्णत्वाचा दाखला दिल्याचे दिसते. त्यामुळे अपीलकर्ता यांनी विहित मुदतीत बांधकाम करण्यास कसूर केल्याने अपीलकर्ता यांना मुदतवाढीचे नियमा नुसार येणारे शुल्क शासनजमा करणे ही त्यांचेच दायित्व ठरत असल्याने जिल्हाधिकारी, मुंबई उपनगर यांनी आम्हानीत आदेशातील मुद्दा क्र. १ ने अपीलार्थींवर



एलएनडी/४८५७/२०२२

48

बांधकाम मुदतवाढीचे शुल्काची रक्कम भरण्याचे सोपविलेले दायित्व योग्य असल्याचे दिसून येते.

- १२) अपीलकर्त्यास भाडेपट्टयाने दिलेली आरएनए कॉर्पोरेट पार्क म्हणून ओळखली जाणा-या इमारतीतील काही युनिट्स पोटभाडयाने दिली असल्याने दिनांक ०१.०१.२००७ ते ०६.०७.२०२२ या कालावधीसाठी पोटभाडयाची अनुज्ञाप्ती शुल्काची रक्कम रूपये ७,१०,७८,२७९ शासन जमा करण्याचे आदेश दिले आहेत. प्रस्तूत प्रकरणात अपीलार्थी यांनी पोटभाडेकरू तयार केलेले नाहीत किंवा मिळकतीचे हस्तांतरण केलेले नाही. इमारतीतील युनिट्स कराराच्या आधारे सामनेवाले यास वापरण्यास दिले आहेत. त्यामुळे शासन निर्णया नुसार पोटभाडयाची अनुज्ञाप्ती रक्कम अदा करण्याची जबाबदारी कोणाची आहे, या मुद्द्यावर फेरचौकशी करून जिल्हाधिकारी यांनी निर्णय घेणे उचित राहिल, असे माझे मत झाले आहे.
- १३) जिल्हाधिकारी, मुंबई उपनगर जिल्हा यांची परवानगी न घेता लिलावाव्दारे हस्तांतरीत केलेल्या क्षेत्रासाठी ५० टक्के अनर्जित उत्पन्नासाठी रक्कम रूपये ५८,११,६५,२२६/- अपीलार्थी यांनी भरण्याचे मुद्दा क्र. ३ ने आदेशीत केले आहे. अपीलकर्त्याने सदर जमीन किंवा त्याचा कोणताही भाग कर्जदारांना हस्तांतरीत केलेला नाही. दिनांक ०५.०१.२००५ च्या उक्त लीज कराराच्या खंड ११(७) मध्ये प्रदान केल्यानुसार ज्या जमीनीबाबत अपीलकर्त्यास परवानगी प्राप्त झालेली होती, त्या मिळकतीवर बांधलेल्या इमारतीतील युनिट्स अपीलकर्त्याने बँकेकडे गहाण ठेवून सुरक्षा म्हणून देऊ केलेली आहे. शासन निर्णय दिनांक २७.०२.२००९ मध्ये (ड) कर्जदार संस्थेने कर्जाची परतफेड केली नाही तर त्याची जबाबदारी सर्वस्वी त्या संस्थेची व्यक्तीची/ कंपनीची राहिल. विशिष्ट प्रकरणात कर्ज देणा-या कंपनीकडे जमीन हस्तांतरण करण्याची परिस्थिती उदभवल्यास, अशी जमीन विक्री लिलाव होत असल्यास त्यासाठी शासनाची पूर्वपरवानगी आवश्यक राहिल, असे नमूद आहे. गहाण ठेवलेल्या मालमत्तेची विक्री करण्यापूर्वी जिल्हाधिकारी यांची पूर्वपरवानगी घेणे व त्यांना प्रदान केलेल्या इतर अटींचे पालन करणे हे वित्तीय संस्थेवर म्हणजेच बँकेवर बंधनकारक ठरते. अशा अनिवार्य प्रक्रियेची पूर्तता न करता बँकेने केलेल्या लिलावामुळे शासन निर्णया नुसार शासनास देय असलेली अनर्जित उत्पन्नाची रक्कम शासनास जमा झालेली नसल्याने शासनाचे महसूलाचे नुकसान झाले आहे. त्यामुळे बाजारमुल्याच्या कमी दराने सदर लिलाव झाला असल्याने सामनेवाले क्र. २ ते ६ यांचे संगनमताने सदर लिलाव पार पडल्याचे समजण्यास वाव आहे. अशा परिस्थितीत अनिवार्य अटीची पूर्तता न करता सामनेवाले क्र. ५ व ६ यांनी आयोजित केलेल्या लिलावात सामनेवाले क्र. २, ३ व ४ यांनी जसे आहे तेथे आहे या आधारावर बोजा असलेली मालमत्ता लिलावाने खरेदी केली असल्याने बँकासह लिलाव खरेदीदार हे अनर्जित उत्पन्नातील शासनाचा हिस्सा देण्यास जबाबदार असल्याने त्यांचेवर जबाबदारी निश्चित करणे उचित ठरणार आहे.



एलएनडी/४९४/२०२२

१३/११/२०२२



19

49

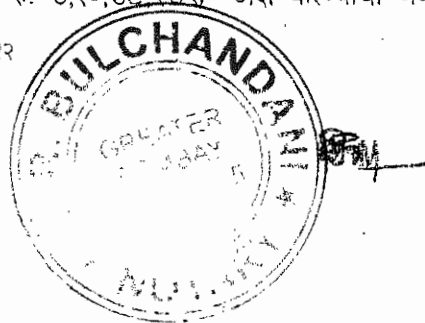
- १४) भाडेपट्टा करारातील शर्त क्र. ११ (i) नुसार शासकीय येणे किंवा भविष्यात निर्माण होणारे कोणतेही कर इत्यादी भाडेपट्टेधारकाने किंवा नष्ट झालेल्या जागेच्या भोगवटदाराने अदा करावयाचे आहे. सदर शर्तीप्रमाणे जिल्हाधिकारी यांनी सधच्या भोगवटदार यांना अनर्जित रक्कम भरण्याबाबत सूचना देणे आवश्यक होते. तसेच भाडेपट्टा करारातील शर्त क्र. ११ (vii) नुसार अपिलार्थी यांना भाडेपट्टा जागेवरील बांधकाम गहाणखताने देण्यास मान्यता दिलेली होती, म्हणजेच भाडेपट्टेदार हे जर जमीन गहाणखताने देत असतील तर शासनाची परवानगी घेणे आवश्यक आहे. त्यामुळे बांधकाम गहाणखताने देण्यापूर्वी शासनाची/जिल्हाधिकारी यांची पूर्व परवानगी घेण्याची आवश्यकता नाही.
- १५) उपरोक्त विवचन पाहता, जिल्हाधिकारी, मुंबई उपनगर यांचे आदेशात हस्तक्षेप करणे उचित राहणार असल्याने मी खालीलप्रमाणे आदेश देत आहे.

आ दे श

१. अपीलार्थीचे अपील अंशात: मान्य करण्यात येत आहे.
२. जिल्हाधिकारी, मुंबई उपनगर यांनी क्र. सी/डेस्क/३ डी/एल-२३५/७३६/२०२२ दिनांक १३.०७.२०२२ रोजी दिलेला आदेश अंशात: बदल करण्यात येत आहे.
३. जिल्हाधिकारी, मुंबई उपनगर यांचेकडील दिनांक १३.०७.२०२२ चे आदेशातील मुद्दा क्रमांक १ पुरता कायम करण्यात येत आहे.
४. जिल्हाधिकारी, मुंबई उपनगर यांचेकडील दिनांक १३.०७.२०२२ चे आदेशातील मुद्दा क्रमांक २ ते ७ रद्द करण्यात येत आहेत.
५. अपिलार्थी यांनी जिल्हाधिकारी यांचे आदेशातील मुद्दा क्रमांक १ मध्ये नमूद केलेली बांधकाम मुदतवाढीची रक्कम रु. २,१५,७७,१८५/- शासन जमा केल्यानंतर दावा मिळकतीस करण्यात आलेले सिल काढण्याबाबत आवश्यक ती कार्यवाही करावी. तथापि याबाबत अर्जदार यांनी शासन निर्णय क्र. एलएनडी/४८५७/१६९१४६ एआय दिनांक २१/११/१९५७ मधील क्र. ४(a) किंवा ४(d)(i) यातील कोणत्या पोटकलमानुसार भरणा करणे आवश्यक आहे याची खातरजमा करून घेऊन रक्कम भरून घेण्याची कार्यवाही करण्यात यावी.
६. जिल्हाधिकारी यांनी त्यांचे आदेशातील मुद्दा क्र. २ मध्ये दिनांक ७.७.२०१७ च्या सुधारित शासन निर्णयातील तरतूदी नुसार दिनांक १.१.२००७ ते ६.७.२०२२ या कालावधीतील पोटभाड्याची अनुज्ञाप्ती रक्कम रु. ७,१०,७८,२७९/- अपिलार्थी यांनी शासन जमा करावी असे नमूद केलेले आहे. वास्तविक अपिलार्थी यांनी सदर जागा सामनेवाले २ ते ४ यांना लिक्व् अँड लायसेन्सवर दिलेली आहे. त्यामुळे शासनाचा सदर निर्णय अपिलार्थी यांना लागू होतो अगर कसे याबाबत फेरखातर जमा करणे आवश्यक आहे आणि त्यानुसार सदरची पोटभाड्याची अनुज्ञाप्ती रक्कम रु. ७,१०,७८,२७९/- अदा करण्याची जबाबदारी कोणाची आहे, या मुद्द्यावर

एलएनडी/४९४/२०२२

20





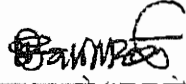
50

फेरचौकशी करून सदर रक्कम संबंधिताकडून वसूल करणेबाबत योग्य तोंनिर्णय गुणवत्तेनुसार/नियमानुसार घेण्यात यावा.

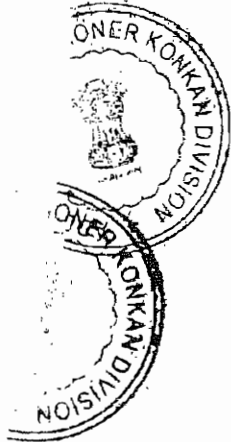
७. सामनेवाले क्र. ५ व ६ यांनी आयोजित केलेल्या लिलावात सामनेवाले क्र. २ ते ४ यांनी जसे आहे तेथे आहे या आधारावर बोजा असलेली मालमत्ता लिलावाने खरेदी केली असल्याने बँका व लिलाव खरेदीदार हे शासन निर्णय क्र.जमीन-२०००/प्र.क्र.१३५/ज-१, दिनांक २७.०२.२००९ नुसार अनर्जित उत्पनातील शासनाचे दायित्व अदा करण्यास जबाबदार ठरतात. त्यामुळे सामनेवाले क्र. २ ते ६ यांचेकडून अनर्जित रक्कम रूपये ५८,११,६५,२२६/- वसूल करण्याची कार्यवाही जिल्हाधिकारी यांनी करावी.
८. खर्चाबाबत आदेश नाहीत.
९. निकालाची समज सर्व संबंधितांना देण्यात यावी.

ठिकाण :- मुंबई  
दिनांक :- १७.०९.२०२३

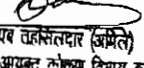


  
किशन जावडे (भा.प्र.से)  
अपर आयुक्त, कोंकण विभाग

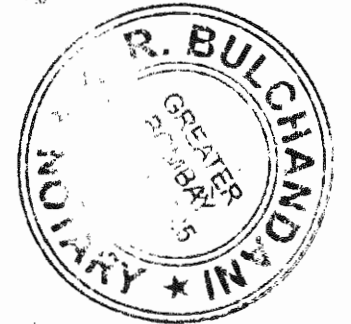
प्रत :- जिल्हाधिकारी, मुंबई उपनगर, यांचेकडे पोहोचोसाठी



प्रमाणित प्रत  
बर्जची ताबडी  
प्रत तयार केली आहे  
प्रत दिल्याची ताबडी  
२०/०९/२३  
नकल की ह  
निरीक्षण की ह  
तात्काळ खे ह  
रक्कम 525/-

  
नीयत तहसिलदार (अभिले)  
विभागीय आयुक्त कोंकण विभाग बरिहा





एलएनडी/४१४/२०२२

True Copy


  
Advocate For Plaintiffs / Petitioners

Exhibit P-1

297

~~Annexure A-1~~

51

**In the Court of Additional Commissioner,**

**Konkan Division, Mumbai**

No. Appeal/ Desk/LND/ 414/2022

Maharashtra Theaters Pvt. Ltd.

Authorized Representative,

Shri. Anubhav Aggarwal

Office :- RNA Corporate Park,

Near Collector Office,

Bandra (East), Mumbai 400051 ... Appellant

Versus

1) Collector, Mumbai Suburban District

2) M/s. Midday Infomedia Ltd.,

6th Floor, RNA Corporate Park,

Near Collector's Office,

Bandra (East), Mumbai 400051

3) M/s. VRSM Enterprises LLP,

3rd Floor, RNA Corporate Park,

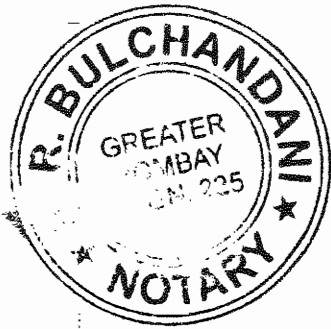
Near Collector's Office,

Bandra (East), Mumbai 400051.

298

52

- 4) M/s. Music Broadcast Limited  
5th Floor, RNA Corporate Park,  
Near Collector's Office,  
Bandra (East), Mumbai 400051
- 5) Bank of Baroda (Formerly Dena Bank)  
Head Office :- C/10, G Block,  
BKC, Dena Corporate Centre, Bandra (East),  
Mumbai 400051
- 6) Indian Bank (Formerly Allahabad Bank)  
Industrial Finance Branch, 37,  
Mumbai Samachar Marg, Fort,  
Mumbai 400 001 ... Respondents



**Appeal application under Section 247 of the  
Maharashtra Land Revenue Code, 1966**

1. The appellant has challenged the order of the Collector, Mumbai Suburban vide Order No. C/Desk-3D/ L-235/ 736/ 2022, dated

53

13.07.2022 in this Court. The case was closed for decision on 06.12.2022.

**A summary of argument of the appellant is as follows.**

- 1) Government Revenue and Forest Department had leased the area 4545 sqm in Survey No. 341A at Bandra subject to terms and conditions at the rate of 5 per cent per annum. On 11.09.1969, the Additional Collector, Mumbai Suburban passed a formal order to grant the said property to the appellant. Accordingly, the appellant constructed a building on the said land. However, as the appellant used 0.45 times of FSI in comparison of the permissible carpet area 1.00 for cinema theater, the appellant suffered huge losses. The appellant had approached the Government to get additional carpet area.



360

SH

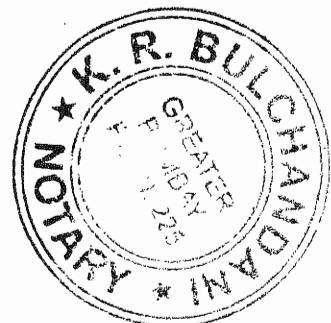
2) By notification dated 09.07.1981 the Government modified the earlier order dated 18.06.1969 and directed that 0.45 carpet area would continue to be used for cinema theater and out of the additional 0.65 carpet area, 0.15 carpet area would be used for shops and banks and 0.40 area shall be used for hotel and the said land has been leased to the appellant for a cinema theater for a period of 99 years. Clause 3(2) of the said memorandum provided that the lessee would himself construct and operate the hotel in the building. No one else will be issued permission to run the hotel. On 30.06.1994, the permission was granted to use, 10 per cent for cinema theater, 10 per cent for shops and banks and 80 per cent for hotels out of the available carpet area of the land. In this regard, it was directed that the annual rent would be 8 percent for 80 percent use of the hotel. On the basis of the said memorandum dated



SS

30.06.1994, the Collector passed order on 19.07.1994.

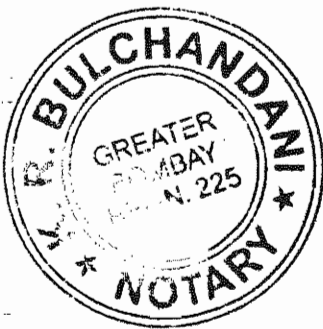
- 3) Government passed memorandum dated 20.08.1997 that condition no. 3 (2) in order dated 09.07.1981 was relaxed. Accordingly, the Collector, Mumbai Suburban issued a memorandum dated 01.01.1998. On the same day, the Collector passed an order granting permission to the appellant to mortgage the leasehold rights in the land. Clause 1 of the said order has provided that if the lending financial institution sells/auctions the plot or leasehold right and any part of it due to default, it will have to pay arrears of rent, fees payable to the government and 50 percent of the unearned income to the government as a first burden. The appellant had again made an application to get 10 per cent FSI for cinema theater and 90 per cent FSI for construction of offices in order



302

56

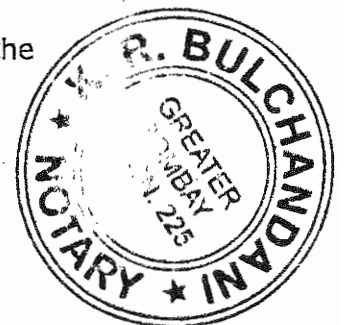
to make change in use of the land. The Government had issued a memorandum on 07.11.2001. On 23.11.2001, the Government Revenue and Forest Department had passed an order to determine the unearned income. The Collector, Mumbai Suburban passed an order dated 12.12.2001 and thereby fixed the annual rent at Rs.82,381/- for the suit property. Accordingly, the appellant constructed a building comprising basement plus cinema theatre, bank, parking and office floors etc. On 05.12.2005 the Government executed the lease agreement in favor of the appellant through the Collector, Mumbai. It has been registered.



- 4) The Municipal Corporation had issued an occupation certificate on 07.06.2006. On 14.09.2012 the appellant had executed mortgage deed in respect of various parts of the building structure known as RNA Corporate

57

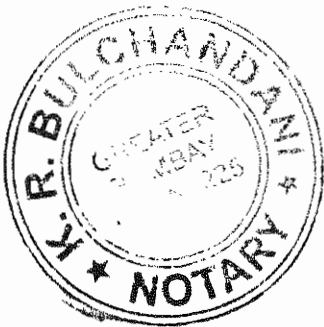
Park in favor of the Dena Bank (Respondent No. 5). The said mortgage deed had been registered. On 31.01.2013 the appellant and RNA Corporate Pvt. Ltd. jointly executed the mortgage deed in favor of Allahabad Bank. The security had been offered in respect of various parts of the superstructure on the said land which is now known as RNA Corporate Park. On 28.03.2013 the appellant executed a second registered agreement of mortgage deed in favor of Dena Bank. On 26.03.2014 the appellant and its director Anil Kumar Agarwal executed another mortgage deed in favor of Dena Bank. And the appellant shall mortgage in respect of the loan. The said mortgage deed had been registered. On 11.01.2017, the government formulated a policy regarding charging premium for extension of time for building construction on leased government land. Accordingly, on 04.02.2018, the





construction was to be completed within two years (by 2003). But as the construction work was completed on 07.07.2006, demand notice was issued as per government policy.

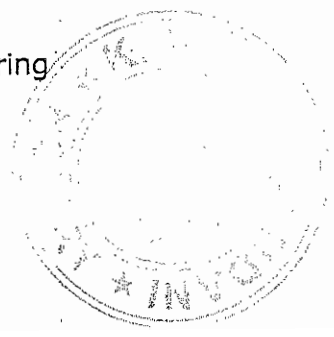
- 5) On 08.01.2018, Allahabad Bank had initiated proceedings under the SARFAESI Act, 2002 in respect of basement area, 2nd and 4th and 5th floors of the new building as RNA Corporate Park. The appellant had initiated proceeding under Section 14 for alleged default in repayment of loans/facilities taken by the appellant. Therein, the Additional Chief Metropolitan Magistrate, Mumbai in case no. 240/AA/2017 ordered to take physical possession. Respondent no. 2 to 4 held certain offices as licensees. On 04.10.2018, Respondent no. 1 had issued notice of demand. The original unit of Respondent No. 2 to 4 had filed Writ Petition no. 2504/2018 in the Hon.



59

High Court. The said writ petition had been disposed of by taking guarantee of Ground Floor, 4th Floor and 5th Floor in RNA Corporate Park Building of Respondent No. 2 to 4. Respondent no. 5 and 6 Banks in collusion of Respondent no. 2 to 4 have auctioned the unit kept as security. The said auction is done in violation of the SARFAESI Act 2002. Bank of Baroda erstwhile Dena Bank and Indian Bank erstwhile Allahabad Bank issued four sale certificates on four different floors in collusion on 29.03.2019.

- 6) On 29.08.2018, the Collector issued notices to the appellant and Respondent no. 2 to 5. Therein it had been mentioned that the e-auction conducted by Respondents no. 5 and 6 was illegal as the approval of the Government or the Collector was not obtained. Notice had been issued on 06.01.2021 that the hearing



would be held on 20.01.2021. Also notice had been given on 22.02.2022. Notice had been given on 01.04.2022. The appellant had filed a detailed reply to the revised show cause notice dated 25.04.2022. On 13.07.2022, the Collector has passed the impugned order.

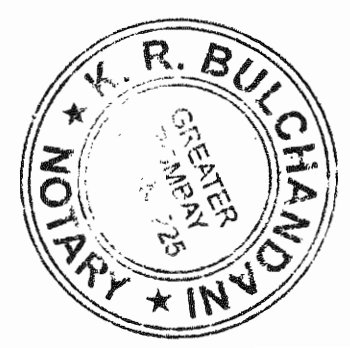
- 7) The appellant has been penalized for delay in construction. The act to impose a penalty of the said amount Rs. 2,15,77,185/- is without jurisdiction. However, the appellant was not responsible for the said delay. Due to the delay from the Municipal Corporation, the planning authority had issued the necessary permission. Due to this, the completion of the construction has been delayed. In the order dated 12.12.2001, the appellant was required to comply with the Development Control Rules while constructing the building on the said lease land. And internal construction has been done



61

within 2 years since the said permission. The agreement dated 05.12.2005 did not stipulate construction within two years. The application made by the appellant for approval of the scheme had been rejected on 27.06.2002. As the Municipal Corporation refused to approve the plan, an appeal was filed before the Hon. Chief Minister. The Hon. Chief Minister approved the appeal on 11.03.2004 and the commencement certificate was issued on 08.07.2004. On 07.07.2006 the construction has been completed within a year. Therefore, the imposition of penalty as per decision dated 01.06.2019 is invalid.

- 8) Respondent no. 2 to 4 and their groups were the existing license holders of the appellant, they had full knowledge of the fact that the building of RNA Corporate Park was constructed on this land and that the said land was owned

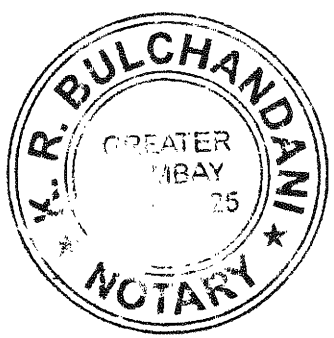


308

62

by the Government and was given on lease. There was information regarding restriction/ payment of premium/ unearned income on transfer of such land. While the Respondent no. 2 to 4 were knowing that such auction/ sale could not have been carried out without the prior permission of the Government, they purchased without paying the requisite premium of floors in their possession. Notwithstanding, shockingly, the appellant has been directed to pay premium of 50% for unearned income. Respondent no. 5 and 6 Banks were also fully aware of this matter that

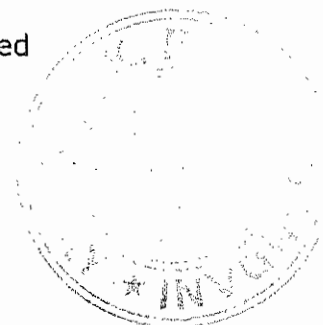
1. The land on which the building of RNA Corporate Park is constructed is a leasehold property owned by the Government
2. There was information about the terms and conditions of the rent agreement and transfer restrictions. They were also aware that it is mandatory to take the prior permission of the government.



63

The Collector's reliance on the Government resolution dated 21.11.1957 is also erroneous. There is no statutory right in the Government resolutions dated 21.11.1957, 11.01.2017 and 01.03.2019. Imposition of penalty is not permissible as the action is in the nature of instructions only.

- 9) In the Government Orders dated 09.07.1981, 30.06.1994 and 07.11.2001, there is no condition that penalty will be levied in case of delay in completion of construction. The appellant had been granted permission to mortgage the property under the lease agreement vide lease agreement dated 05.12.2005. Therefore, creation of mortgage deeds in favor of the Respondent No. 5 and 6 did not constitute breach. The Appellant has not established third party rights in favour of Respondent no. 2 to 4 or any other. It is agreed



310

64

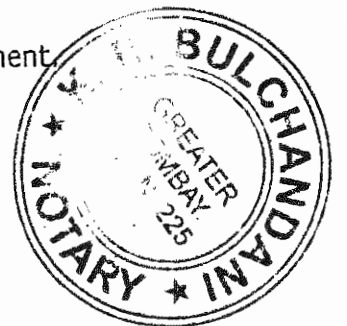
that there was no sale deed, no agreement for transfer, no power of attorney and no rights have been created. Respondent no. 2 to 4 were licensees by registered agreements. Such license cannot be created for the benefit of a third party.

- 10) Observations in Paragraph no. 5 are incorrect. Respondent no. 2 to 4 are listed as tenants, which is incorrect. In fact, the Respondents are the licensees under the registered license agreement. Therefore, they cannot be treated as tenants or sub-tenants. Reliance on the Government Resolution dated 25.07.2007 is wrong as the said Government resolution is applicable only after the sub-lease is prepared. The sub-lease is being collected when the sub-lease is created. The said government resolution charges at 10 percent for industrial purpose and 12.5 percent for commercial



65

purpose. Therefore, Government resolution dated 25.05.2007 or 07.07.2017 is not applicable. Demanding amount of Rs.7,10,78,279 is shocking. As the Government Resolution dated 07.07.2017 cannot be applied with retrospective effect, Rs. 7,10,78,279/- has been levied entirely without any jurisdiction of law. The Government Memorandum dated 21.11.2001 and 24.08.2004 for levy of premium on alleged sub-lease/lease are not applicable in this case. In the case, there was no question of creating a tenant in the land or any interest in the property. In any situation, levy of premium for rent agreement dated 21.11.2001 and 24.08.2004 with retrospective effect is inappropriate. Respondent no. 2 to 4 and their units were the existing licensees of the appellant. They were fully aware of this fact. The building of RNA Corporate Park is constructed, the land is owned by Government.





3/2

66

They were aware of the restrictions on transfers and the requirement to pay premium/ unearned income. In such a situation, Respondent no. 2 to 4 fraudulently purchased the floors in their possession while knowing that such auction sale could not have been done without the prior permission of the Government. Notwithstanding, the appellant is ordered to pay 50% of the unearned amount. The decision dated 07.07.2017 is without any basis and perusal of the table shows that the amount charged is higher than the rent charged by the government.



- 11) The demand of 58,11,65,226/- which is made directing the collection of annual fees by the impugned order is illegal. Observations in judgment paragraph no. 6 regarding unearned income are incorrect. The appellant was granted permission to mortgage the leasehold

6A

Interest in the said land. In so far as the building constructed by the appellant is concerned, Respondent no. 1 having no right over the building, there was no question of charging any fee or premium in that respect. Clause 10 of the order dated 11.01.1969 and dated 01.01.1998 passed by the Collector is completely misconstrued. The order dated 01.01.1998 states that if any financial institution is required to auction the property, such institution is required to pay the arrears of lease rent. It was provided that on the occasion of auction the financial institution would have to pay 50 per cent of the unearned income as determined by the Collector or the officer appointed by the Government. In such circumstances the appellant is not liable to pay unearned income.

317

68

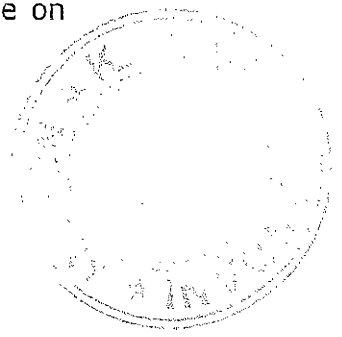
12) It is admitted that before the mortgage, the Respondents no. 5 and 6 must issue 90 days prior notice to the Government to exercise any right of mortgage or sale. Respondents No. 5 and 6 have not complied with this condition. Transfer by auction is made by the Respondents no. 5 and 6 and not by the appellant. A transfer made by Respondents No. 5 & 6 banks cannot be treated as a transfer made by the borrower. It must be held that Respondents no. 5 and 6 have taken such statutory action by mortgage deed. In such a case, it must be deemed that the auction purchaser Respondents No. 2 to 4 have purchased the property on "as is where is" basis. It is evident from the auction notice issued on 10.12.2018 by Respondent no. 5. The auction notice specifically mentions that the auction purchaser must pay all due government taxes and duties relating to the property in



89

question. The conclusions stated by the Collector in clause 11(9) about mortgage are wrong. As the appellant has not made any transfer and the banks have not taken the permission of the Government or the Collector before auctioning the land, there is no legal obligation on the appellant. The reference made to Sections 72 and 264 of the Maharashtra Land Revenue Act, 1966 is erroneous.

- 13) Levy of any premium against the leasehold right of the appellant on this land or on the remaining floors owned by the appellant is absolutely not permissible. The charge is levied on the property which is auctioned and not on the said land or the remainder of the building owned by the appellant. The say of the Collector is wrong that auctioning certain floors of the building can amount to transfer of leasehold rights in the said land. Collector's reliance on

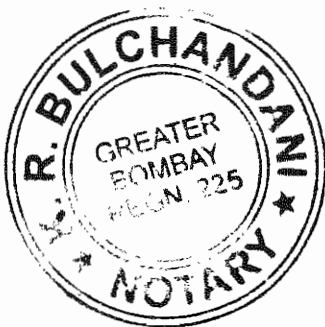


316

70

Canara Bank Ashram Road v. Collector Stamps is wrong. The said judgment is not applicable in the case.

- 14) If the Collector is not sure about the Government's policy of levying any premium or unearned income in the matter, he must seek guidance from the Government. All the observations made in paragraph 7 are wrong. It completely misrepresents the statutory provision and draws erroneous conclusions with a view to favoring the Respondents No. 2 to 6. Observations in Paragraph no. 8 are incorrect. No permission is required for mortgage in respect of building structure. Therefore, the Collector cannot hold that the appellant has committed an illegal act. All observations in paragraph no. 5 and 6 by the Collector are incorrect. Respondents no. 5 and 6 Banks were fully aware that the land was given on



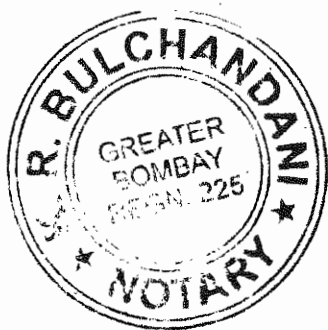
government lease. Banks need to take prior permission of the Government/ Collector before auctioning. But they have failed in that. In such circumstances, the explanation of the Collector is contrary that the appellant made a mistake in informing the Government/ Collector about the auction.

- 15) As per circular dated 27.02.2009, when auction sale is done through JV Bank, there is the first charge of Government on proceeds from auction purchase. Respondents no. 5 and 6 while conducting the auction and Respondent no. 1 without any valid reason erred in imposing penalty on the appellant. Respondents no. 5 and 6 banks despite the full knowledge, they have conducted a fraudulent auction in favour of Respondents no. 2 to 4. Respondents No. 5 and 6 have received consideration from Respondents no. 2 to 4.



Therefore, the Respondent no. 5 and 6 as well as Respondents no. 2 to 4 are liable to pay any unearned income. The appellant will not be liable for such payment.

- 16) The collector has passed order in favor of Respondents No. 2 to 4 to see that they are saved from any unearned income. No unearned income had been on appellant or had due, notwithstanding the Respondent no. 2 to 4 are the purchasers and since they have openly purchased the property in the auction, thereof onus is cast on the appellant by the said order. During the pendency of the present appeal, the premises of the appellant's office are sealed by Respondent no. 1. By adopting a bias, the premises of Respondents no. 2 to 4 are not sealed. The said property is part of the leased land. The order of the Collector, Mumbai Suburban is against the law, principle of



73

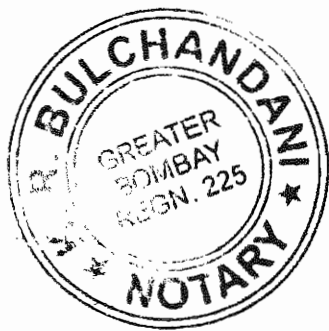
conscience. However, the said order be cancelled.

**Summary in the argument of the Respondent no. 2, 3 and 4 is as follows.**

- 1) The Respondents are purchasers of full value of suit property as per the Securitization and Reconstruction of Financial Assets and Enforcement of security interest Act 2002 through Respondent no. 5 and 6. The said property of survey no. 341-A area 4515 sq.m. is located in a building known as RNA Corporation Park, near the Collector Office at Bandra. Respondent no. 5 and 6 have approved the sale and the appellant and Respondent no. 1 was aware of this. Therefore, in the dispute between the appellant and Respondent no.1, the Respondents have no relation. Consequently, the appellant, Respondent no. 1 or the Government Resolution, the alleged



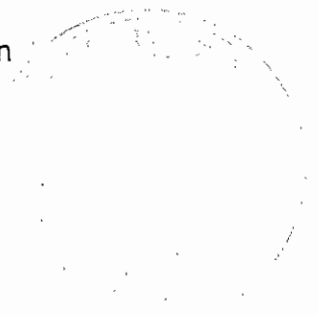




75

had defaulted in the liability owed to him in respect of property. The payment arising out of the sale agreement in respect of property has been considered to settle the outstanding amount payable to the respondent no. 5 and 6. This does not cause any loss to the appellant.

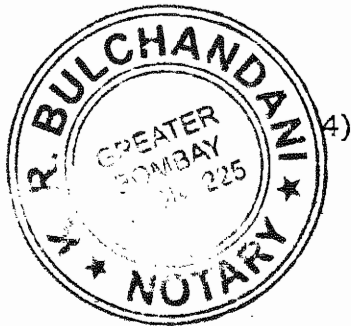
- 3) The contents of the show cause notice dated 29.08.2019 issued by Respondent no. 1 are being denied to the extent of auction held in respect of property by the Respondent No. 5 and 6. Pursuant to Clause 11 (7) of the Lease Agreement, if the appellant attempts to make mortgage or pledge/ transfer the said property, the written consent of the Respondent no. 1/7 is not required. Government resolution dated 27.02.2009 has also mentioned that permission is required to mortgage the said land. The terms of this resolution are not applicable for transfer of units in the property. No permission



322

76

is required in respect of e-auction and sale of units considering that the auction is held in respect of units in the said building. According to the provisions of SARFAESI, the Respondents no. 5 and 6 held the auction, so the sale of property was valid, legal. There is no breach of the terms of the lease agreement. In view of the order dated 04.09.1997, the order dated 01.01.1998 and the provisions of the lease agreement, the sale in favor of the Respondents is not in any way a violation of law, the said sale is legal and the rights and title of the Respondents are intact. Liability arising out of breach of lease agreement or government memorandum/ order is upon Appellant and Respondent No. 5 and 6.



4) It has been admitted in the impugned order that, 1. No construction has been made within two years from 15.11.2001 2. Lease amount

77

not paid 3. Order dated 04.09.1997 and dated 01.01.1998 of Respondent no. 1, 4. The act of mortgage and subsequent auction of sale is entirely on the appellant. Therefore, due to violation of the condition, the amount demanded must be recovered from the appellant. If the appellant fails to pay the said amount, recovery shall be made from Defendant No. 5 and 6 due to violation of Government order/ restriction to obtain consent of Respondent No. 1. It is not accepted that while selling as per SARFAESI Act, the Respondents knew that, the appellant and Respondent no. 5 and 6 were required to obtain prior permission. As per conditions of Lease Agreement and relying on submissions 5 and 6, the Respondents have become purchasers of the property by paying the entire amount. The liability imposed on the appellant by the

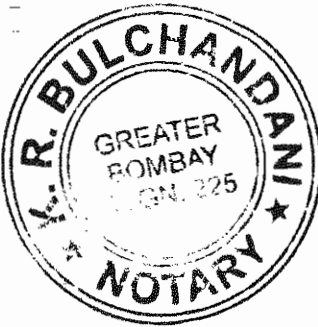


324

78

impugned order appears to be consistent with the provisions of the Code.

- 5) The e-auction has been conducted in a transparent manner as per the provisions of SARFAESI Act and the bidders have legally participated in the auction. They were later declared the successful bidders. As the appellant is failed to pay the dues payable to the Respondent. 5 and 6, he is constrained to sell property to Respondent No. 5 and 6, therefore the impugned order is correct. The only the appellant has liability to pay the unearned amount in respect of property. If the appellant fails to pay the amount demanded under the impugned order, the proceeding shall not be started in respect of the said land. The appellant should suffer serious loss if the proceeding is resumed in respect of the said land. The Appellant executed a license

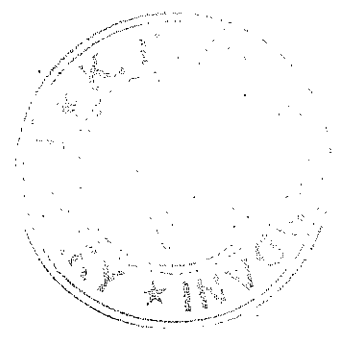


79

agreement with the Respondents allowing the Respondents to use the property on a license basis. Accordingly, no tenancy is created in respect of property. Therefore, the amount demanded in this regard be recovered from the appellant.

- 6) Without prejudice to the above, due to the purchase of property by the Respondents they are ready to pay dues to the Government/ Respondent no. 1 from 18.03.2019 (from the date of purchase of the property). However, directing the respondents to pay the rent prior to 18.03.2019 would be unreasonable and irrational. Because before that the Respondents had no right on property. However, the appeal of the appellant be dismissed.

**The summary of the argument of Respondent no. 5 is as follows.**



1) The proceeding before Respondent no. 1 is no adverse proceeding between the Appellant and Respondents no. 2 to 6. But in fact, it is a proceeding between the appellant and Respondent no. 1. Respondent no. 1 has clarified in the impugned order that the appellant has failed to comply with the terms and conditions of the rent agreement dated December 05, 2005. Appellant has no merit. It appears that the appellant is trying to push responsibility to comply with directions given by Respondent No.1 upon the auction purchasers Respondents no. 2 to 4 or the Banks i.e. Respondent no. 5 and 6.

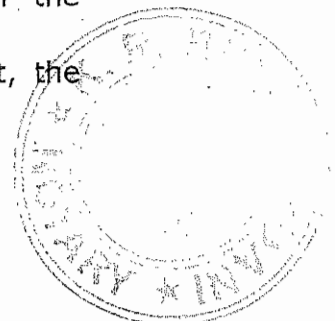


2) Respondent No. 1 has cited the decision by Hon. Gujarat High Court in the matter of Canara Bank Ashram Road v. Collector, Stamps, the said decision is applicable in the case. Respondent no. 1 has instructed the appellant

81

to pay the unearned amount and transfer fee in respect of the property to be sold by auction. Therefore, it is necessary to recover the unearned amount and transfer fee from the appellant. Respondent no. 1 has passed a consistence order imposing monetary penalty on the appellant. Auction buyers Respondents no. 2 to 4 are relevant to the allegations. No specific rejection from Respondent 5 can be guaranteed for the same.

- 3) Before the appellant mortgaged the disputed property, the Respondent no. 5 was expected to take the prior permission of Respondent no. 1, this issue is not acceptable by the Respondent No. 5. Respondent No. 5 is not part of the lease agreement executed between the appellant and Respondent no. 1. Respondent No. 5 has exercised its powers under the SARFAESI Act, 2002. According to that, the

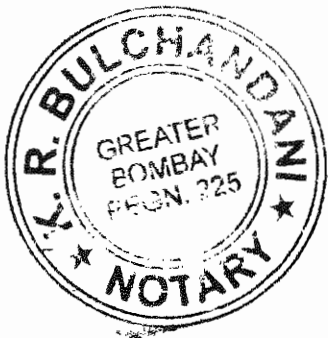




328

82

bank financial institution can enforce the secured property without any intervention of court or tribunal. Rather the appellants unsuccessfully tried to challenge the sale made by the Respondent No. 5 by filing a securitization application. As per the Government resolution dated 27.02.2009, it is not acceptable by the Respondents that the Bank Respondent no. 5 is liable to pay unearned income after auction sale. It is reiterated in this regard that the said proceeding is no adverse proceeding between appellant and Respondent no. 5. Respondent No. 1 in the show cause notices dated 7th December, 2019 and 22nd February, 2021 has not alleged any violation of the provisions of the Government Resolution dated 27th February, 2009.



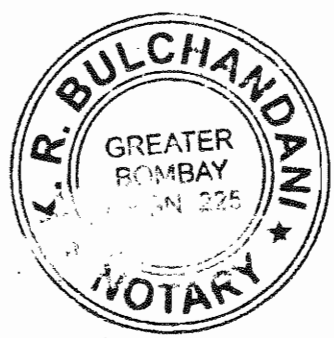
83

- 4) The Government Resolutions have no statutory force or are only in the form of executive instructions, this statement is not acceptable by Respondent no. 5. The interpretations given in the caption are contradictory. On the one hand the appellant has alleged that the Respondent no. 5 has violated the provisions of the Government Resolution dated 27.02.2009. On the other hand, he says that the government resolution has no legal force.
  
- 5) According to the order dated January 1, 1998, the financial institution is required to pay the arrears of rent. Also, the financial institution is liable to pay 50 percent of the unearned income. This is not acceptable by Respondent no. 5. Because the show cause notice does not allege any violation of any order dated January 1, 1998. The SARFAESI Act clearly states that, the property transferred after taking possession

330

84

of the secured creditor shall be deemed to have been transferred by the owner. It is not acceptable by Respondent no. 5 that any premium or transfer fee shall be charged. It is held in Gujarat High Court v Canara Bank 2013 SCC Gujarat 8692 that any sale by a secured person is on behalf of the debtor. The said judgment is fully applicable to the facts of the present case. The Respondent No. 5 is not agreed that in implementing the SARFAESI Act, the approval the Respondents no. 1 is required. The appellant has failed to seek any relief; however, the appeal of the appellant be dismissed.



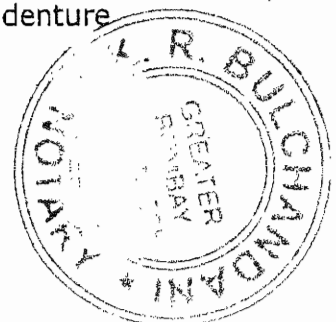
**Summary of the written argument of Respondent no. 6 is as follows.**

- 1) The Respondent does not accept the contents of the appeal and the allegations leveled against the Respondent. The role of the

85

Respondent in the dispute between the appellant and the other Respondents is of a limited nature. Respondent no. 6 has taken steps to recover its financial dues as per the measures legally available under the SARFAESI Act. Therefore, he cannot be held responsible for the alleged fault.

- 2) The appellant had approached the Respondent no. 6 for sanctioning a term loan of 55.00 crores. 55.00 crore loan was granted to him as per his request as per the terms mentioned in the letter dated 22.01.2013 after considering his proposal. Various documents were executed by the appellant to secure the said loan of Rs.55.00 crores. Such as 1. Term Loan Agreement between RNA Corp Pvt Ltd and Maharashtra Theaters Pvt. Ltd. and Allahabad Bank 2. Amended and Restated Agreement of Term Loan dated 30.01.2013 3. Indenture



332

86

Agreement of Mortgage Deed dated 31.01.2013  
and 09.03.2013.

- 3) By lease agreement dated 05.12.2005, Maharashtra Theater had been granted lease for 99 years for construction of cinema theatre. In respect of the said lease agreement, the lessee had been granted permission to mortgage the structure to be built on the said land to banks and financial institutions. As the appellant defaulted in repaying the loan as sanctioned, Respondent no. 6 was bound to declare the account of the appellant as NPA as per Reserve Bank guidelines. Respondent no. 6 had taken steps under the SARFAESI Act and the said property was sold by auction to the Respondent no. 2 for Rs.1,28,00,000/-. In that regard, Respondent no. 6 issued a sale certificate in the name of Respondent No. 2 on 29.03.2019. And the auction buyer was given



87

possession of this property. Proceeding initiated under the provisions of the SARFAESI Act, 2002 are in accordance with law. If it was not acceptable, the appellant could have challenged it. Respondent no. 6 has taken possession of the property on 18.08.2016. Physical possession of 4th, 5th and ground floor property has been taken as per order dated 12.10.2018 passed by Hon. High Court, Bombay in Writ Petition No. 2504/2018. The respondents have sold the property/structure under the SARFAESI Act, 2002. Therefore, the sale auction is valid as per the provisions of law. Respondent No. 6 being a secured creditor has duly sold the property/ structure to recover the public money by taking possession of the secured property. The provisions of the SARFAESI Act, 2002 supersede all other laws for the time being in force and if any party is aggrieved by an action taken by a secured

334

88

creditor, he may approach the appropriate court for relief.

- 4) The contentions raised here against Respondent no. 6 are not valid and proper. The present appeal is basically to challenge the levy of penalty imposed on the appellant about violation of the building permission granted to the appellant and about not completing it within the time limit fixed by Respondent no. 1. It relates to breach of lease deed. Respondent No. 6 is no party herein. The said appeal is between the appellant and Respondent no. 1. Pursuant to Clause 11(7) of the said lease deed, while the said land is being mortgaged to obtain any financial assistance from any financial institution or bank, the permission of the respondent no. 1 was required. The said clause states that if the lessee sells or transfers or mortgages the said land or any part of the said



89

land to any financial institution or any lender, the prior permission/consent of the Government is required in writing. The said clause shall not apply in case of mortgage or assignment or transfer of structure or any unit built on the said land. In the present case the units or structures in question have been mortgaged to the Respondent No.6. Therefore, the Respondent no. 6 does not require permission from the Respondent no. 1 for mortgage in respect of units mortgaged. Respondent no. 1 is replied upon the Office Memorandum dated 04.09.1997 which specifies the steps to be taken by the lending financial institution while selling the plot or leasehold right or any part thereof and the amount thereof. This memorandum provides that unearned income is payable on sale, transfer, assignment, lease, mortgage of land.





336

90

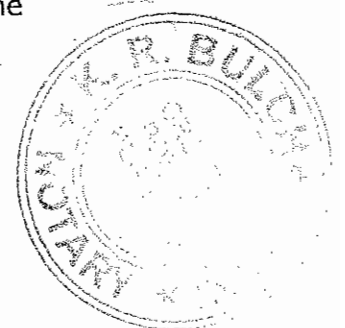
5) In view of the clause of the lease agreement as well as the office memorandum issued by the Government in respect of the said plot of land, permission was not required from the side of the respondent, before mortgage of the units in the leased land and construction. The appellant has defaulted in repaying the loan and financial facilities taken from the respondent. Therefore, action has been taken against them under SARFAESI Act. If the appellant has been aggrieved by the action taken by the respondent under SARFAESI Act 2002, he should have taken appropriate steps to challenge the said action. By raising the said contention before this forum which has not relation with it, it is nothing but an attempt to mislead the Hon'ble Officer. In the present case the structure only has been mortgaged and sold, therefore circular dated 27.02.2009 is not applicable. Considering the provisions



91

mentioned in the Government Resolution dated 27.02.2009 as well as Section 11(7) of the Lease Agreement, Defendant no. 6 has not committed any violation. It had not required permission from Respondent No. 1. And if there is any such requirement, the appellant shall be liable to comply with the same. As far as proceeding under SARFAESI are concerned, those were in the public domain and the appellant knew about it. No liability shall be imposed on the Respondent responding. That is right, so the Respondent has not demanded so from him.

- 6) The structures mortgaged in the names of the Respondents and sold in the auction to the Respondent no. 2 are included in the auction of the property. In view of the provisions given in the Government Resolutions and the lease agreement, the appellant did not require the

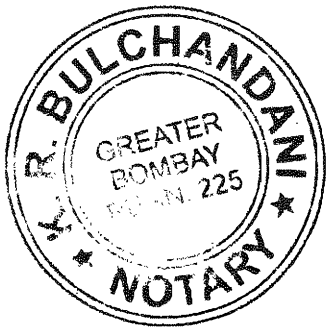


338

42

prior permission of the Government before keeping any mortgage for the financial facility. Considering the case as above, it is humbly prayed before the Hon. Officer that Respondent no. 6 (Indian Bank) be excluded from the present case in the interest of justice.

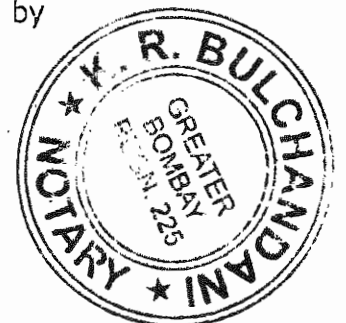
- 7) The secured dues of Bank Respondent No. 6 also have priority over the dues of the State Government which includes recovery under the Land Revenue Code. The said matter has accepted in various orders by the Hon. High Court 1. State Bank of India v. Government of Maharashtra (Case No. 2020 SCC Online Bom 4190) 2. Union Bank of India v. Government of Maharashtra (Case No. 2021 SCC Online Bom. 6070) 3. Edelweiss Asset Reconstruction Company Ltd. v. Tax Recovery Department and others (Case No. 2021 SSC Online) Bom. 1311, 4. Jalgaon Janma Sahakari Bank Limited and



93

others v. Joint Commissioner of Sales Tax Nodal  
9. Mumbai (Writ Petition No. 2022 SCC Online  
Bom. 1767).

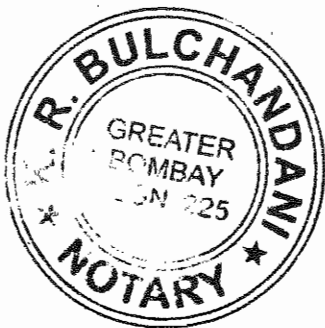
- 8) As the interests of Respondent no. 6 under registered mortgage deed are being secured, the aforesaid provision of Respondents no. 6 is incorporated below. The recovery of amount from the sale of the mortgaged property in the auction conducted by them has been made in accordance with law as the appellant failed to pay the loan amount. The provisions of the SARFAESI Act, 2002 supersede all other laws. Therefore, the action taken by respondent No. 6 is within the parameters of law.
- 9) The property has been auctioned in compliance with the provisions under the SARFAESI Act. Therefore, the said sale is valid. Respondent No. 6 being a secured creditor he has properly sold the property to recover public money by



340

94

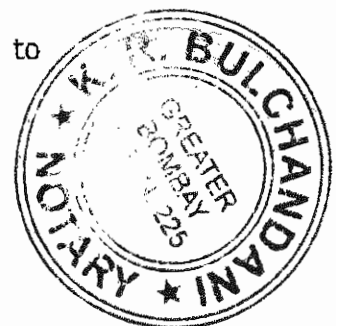
taking secured physical possession. Respondent no. 1 has rightly concluded that it was the responsibility of the appellant to comply with the terms of the lease agreement laid down by Respondent no. 1 to him. His failure cannot be attributed to Respondent no. 6. Because the bank has legally done the work of recovery of arrears by working under the law. Respondent No. 6 cannot be penalized for any unearned income. Because it has not committed any illegal act. It is the appellant who is liable to pay the amount demanded. However, the appeal of the appellant be dismissed.



**By seeing appeal application of the appellant, written arguments of Respondent no. 2 to 4, Respondent no. 5 and 6, impugned order, documents in the case, the following points reveal.**

95

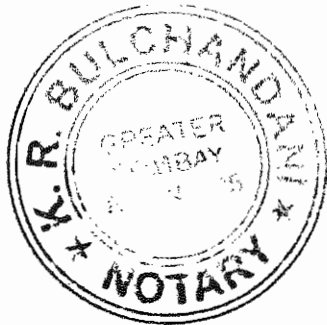
- 1) 4514 square meter land in Village Bandra, Tal. Andheri Survey No. 341A had been leased for 99 years to Maharashtra Theaters Pvt. Ltd. on certain terms and conditions as per the Government resolution dated 18.06.1969 and as per Collector's office order no. 11.09.1969. On 02.01.1970 possession of the proceeds was given to the lessee.
- 2) A memorandum dated 09.07.1981 was issued by the Government on the request made by the company. According to the said memorandum, 0.45 carpet area for cinema theater, 0.15 carpet area for bank and the 5 per cent lease of the land value at the rate of Rs. 327/- sqm for shop tenements and 0.40 carpet area for hotel had been granted permission by charging 8 per cent of the current market value of the land.
- 3) On 30.06.1994, pursuant to the request made by Maharashtra Theaters Pvt. Ltd. regarding to



342

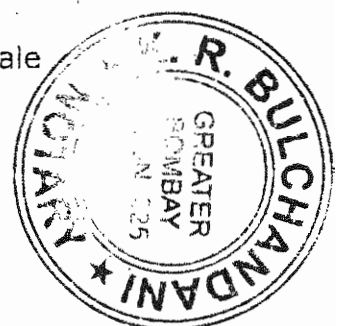
96

change again the change in land use granted by the government on 09.07.1981, subject to the provisions of the Development Control Rules, the Government had granted permission for 10 percent carpet area for cinema theater, 10 percent of the carpet area for shops and banks and the use of the rest of 80 per cent of the area for hotel out of permissible carpet area for the suit land subject to the terms/conditions of the order dated 09.07.1981 and on such additional conditions as the Collector may think fit. Also, for the land granted to the Maharashtra Theaters Pvt. Ltd., the government approved the division of the permissible carpet area as above as 10 percent, 10 percent and 80 percent. Accordingly, the Collector's office had passed an order on 19.07.1994.



97

4) In the matter, under the Government memorandum dated 04.09.1997 and dated 01.01.1998, the company was conditionally granted permission to mortgage the leasehold rights of the land granted to Maharashtra Theaters Pvt. Ltd. at Survey no. 341-A at village Bandra and to raise loans up to the limit of the present market value of the suit land. Clause No. 1 to 5 of the aforesaid Government Memorandum states that, (1) In case the lending financial institution sells the plot or leasehold right or any part thereof, the following amount shall be paid to the Government as the first charge and the mortgagor will meet their demands from the remaining amount. (a) If there is an amount due under the lease and the amount due under the agreement (b) For the purpose of determining 50% of the unearned income i.e. the amount of unearned income from the sale





343

98

of the said land, the Collector, Suburban Mumbai District or any other officer appointed for this purpose by the Government shall determine such unearned amount and will obtain the government order at that time if necessary (2) The agreement with Maharashtra Theater shall not be terminated without giving 90 days' notice to the concerned financial institution. Or the land cannot be reacquired. The purpose is that if there is a possibility of taking measures regarding the breach of condition, the opportunity to take such measures shall be available to the financial institutions (3) After raising the loan from the financial institution, copies of the certificate from that institution and the certificate regarding the proper utilization of the loan will be submitted to the government (4) The Collector has to ensure that the Maharashtra Theaters Pvt. Ltd. has not breached any



condition and if any breach of condition is noticed by the Collector, the land will be reacquired. Otherwise, this order will be invalid.

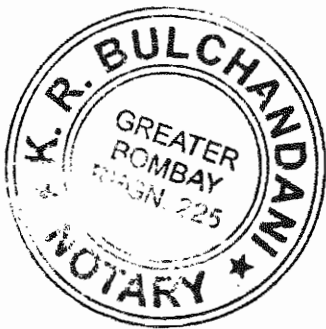
- 5) In order to re-change the permissible purpose, pursuant to the request made by Maharashtra Theaters Pvt. Ltd., by the Government Memorandum dated 07.11.2001 subject to the provisions of the Development Control Rules, the permission had been granted for 10 percent for cinema theater, 90 percent of the carpet area for offices out of the permissible carpet area for suit property as per terms and conditions in the orders dated 09.07.1981 and dated 30.06.1994. There was a condition that construction should be completed within 2 years from the date of permission as above and actual use should be started. The Collector's office by order dated 12.12.2001 again fixed the land rent. In this, Maharashtra Theaters

34b

100

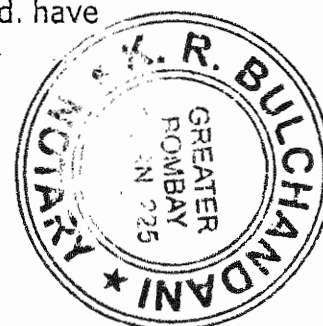
Pvt. Ltd. has to pay 50% unearned amount in addition to lease amount for 90% carpet area (4063.5 sq.m.) to be used for offices. A condition had been included that they would develop the said plot and construct offices and thereby pay 50 percent of the received unearned amount to the government from rent/deposits and from thereof sale, transfer, agreement for sale, power of attorney and any kind of third party right.

- 6) Subsequently, pursuant to the request made by the institution to use TDR, according to the provisions of the Government Resolution dated 03.03.1999 and dated 09.07.1999, Government Memorandum dated 20.03.2002 and the Collector's Office order dated 22.04.2004, the permission had been granted to use TDR on usual terms and conditions by levying a temporary premium of 3 per cent of



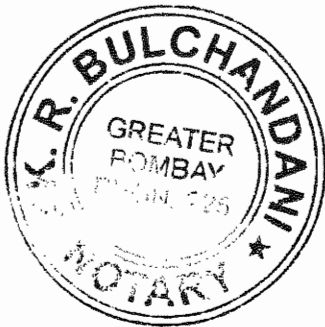
the lease price of the government plot. A Lease Agreement dated 05.12.2005 has also been entered into with the lessee.

- 7) 3rd, 5th (parts), 6th floor of the construction on the suit property to Dena Bank (Bank of Baroda) respectively on dated 14.09.2012, dated 28.03.2013 and dated 26.03.2014 as well as Basement, 4th and 5th floor (part) of the said construction to Allahabad Bank vide mortgage deed dated 31.01.2013 have been mortgaged. The approval of Government or Collector, Mumbai suburban in that regard have not been obtained.
- 8) The said banks have sold the said constructions through e-auction to Respondents no. 2 to 4 and the approval of the Collector or the Government has not been obtained in this regard. 1. Mid Day Infomedia 2. M/s. V. R. S. M. Enterprises LLP 3. Music Broadcast Ltd. have



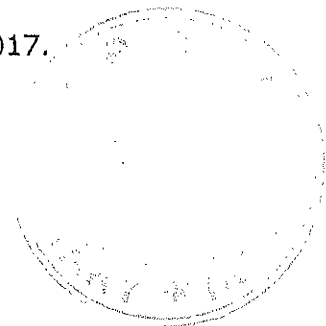
taken by e-auction 6<sup>th</sup>, 3<sup>rd</sup> and 5<sup>th</sup> floor respectively and when they requested to the Collector, Mumbai Suburban Office to keep it as mortgage, the Collector office has passed orders on 13.07.2022 as it has come to notice that the lessee has breached the conditions. Against the said order, the appellant has challenged vide appeal no. LND/ 414/2022.

- 9) As the appellant has voided the condition no. 2 in Lease Agreement dated 05.12.2005 and condition no. 1 (b) in the mortgage permission granted vide government resolution dated 04.09.1997 and as the construction was not completed within the stipulated time vide condition no. (a) in Memorandum dated 07.11.2001, the appellant is ordered by order dated 22.07.2022 to deposit with the government the amount of extension of construction time Rs. 2,15,77,185/- in order to



103

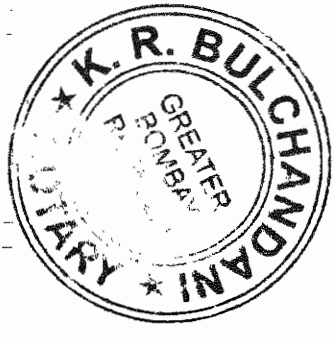
regularize the breach of condition. Also, according to point (4) of Annexure "C" of the Government Resolution dated 25.05.2007, a license fee shall be levied at the rate of 10% of the transfer fee as indicated in paragraph 1 (a) for industrial use and at the rate of 12% per annum of transfer fee on rent for commercial use while letting/ sub-letting of premises. Also, orders being amended from time to time shall be implemented in this regard. After that, the transfer fee/fee was negligible and the government amended it by the government and vide resolution dated 07.07.2017, the transfer fee for transfer of commercial/ industrial tenements at Rs. 1000/- per Sq.Ft. or 6% of the assessment as per prevailing annual statement of rates, whichever is higher, is to be fixed. Therefore it becomes necessary to fix the sub-let amount to the extent of 12.5% at the rate of revised transfer fee after 07.07.2017.



350

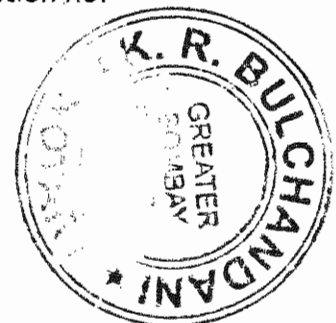
104

The Lessee has paid license fee for sub-let at Rs. 47,00,694/- to the Talathi office and after deducting the said amount, the amount of license fee is being calculated as Rs. 7,10,78,279/- from 01.01.2007 to 06.07.2022. Concluding that it is necessary to recover the said amount from the appellant, the appellant has been informed about depositing with the Government the license amount Rs. 7,10,78,279/- for sub-let for the period from 01.01.2007 to 06.07.2022. Actually, the appellant has given the said land to the respondents 2 to 4 on leave and licence. Therefore, it is necessary to submit proof as to whether the said Government Resolution is applicable to the appellant. Also, by ensuring that under which of the sub-clause of No. 4 (a) or 4 (d) (i) of the Government Resolution no. LND/ 4857/169946-AI dated 21/11/1957 the



applicant is required to pay the amount of Rs.2,15,77,185/-, the amount must be taken.

- 10) The impugned order shows that the Appellant has been punished with government penalty due to violation of the conditions mentioned in the Government Resolution regarding non-construction, non-granting of lease, non-payment of unearned amount of mortgage to financial institutions, transfer without license.
  
- 11) Pursuant to the request made by the lessee to the Government Revenue and Forest Department for change in use of the land, the Government on 07.11.2001 had granted permission for 10 percent for theaters and 90 percent carpet area for offices out of the carpet area permissible for the questioned land subject to terms and conditions in the orders dated 09.07.1981 and dated 30.07.2001. However, it has been stipulated in condition no.

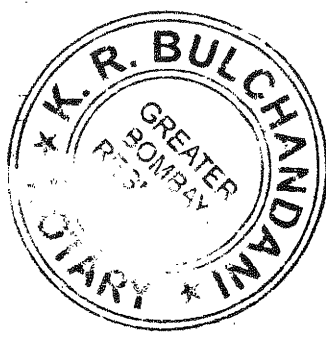




352

106

(a) of permission dated 07.11.2001 that actual use shall be started after completion of construction within 2 years from the date of permission. Accordingly, the Collector's office had issued an order dated 12.12.2001. Therefore, the appellant was expected to complete the construction within 2 years from 12.12.2001 i.e. on 11.12.2003. If not, it is obligatory on the appellant to file an application with the Collector or the Government regarding the extension of the construction period and obtain permission for the extension from them. It appears that Lessee Maharashtra Theaters Pvt. Ltd. was given a completion certificate by the Municipal Corporation on 07.07.2006. Therefore, since the appellant failed to complete the construction within the prescribed time-limit and as the appellant is liable to deposit fee with the government as per the rule of extension period, it appears that the liability



107

assigned to pay the amount of construction time extension fee by the Collector, Mumbai Suburban in issue no. 1 of the challenged order on the appellant appears to be correct.

- 12) Since some units in the building known as RNA Corporate Park, which has been leased out to the appellant, have been sublet, it is ordered to deposit with the government the sublet license fee amounting to Rs.7,10,78,279 for the period from 01.01.2007 to 06.07.2022. In the present case the appellant neither created a sub-tenant nor transferred the property. The units in the building are given for the use of the Respondents on contract basis. Therefore, according to the government resolution, I am of the opinion that it will be appropriate for the collector to conduct re-trial and take a decision on the issue of who is responsible for paying the license amount of sub-let.



35h

108

13) It is ordered by issue no. 3 that the appellant to pay an amount of Rs. 58,11,65,226/- for 50% unearned income for the area transferred by auction without taking the permission of the Collector, Mumbai Suburban District. The appellant has not transferred the said land or any part thereof to the borrowers. As provided in Clause 11(7) of the said Lease Agreement dated 05.01.2005, the units of the building constructed on the land in respect of which the appellant had obtained permission have been mortgaged and offered as security by the appellant to the banks. In the clause (d) of the Government Resolution dated 27.02.2009, it is stated that if the borrower institution fails to repay the loan, the liability shall remain entirely with the person/ company of the said institution. It is stated that if the situation arises to transfer the land to the lending company in a particular case, prior permission



109

of the government will be required if such land is being auctioned. Before selling the mortgaged property, it is binding on the financial institution i.e. the bank to obtain the prior permission of the Collector and to comply with the other conditions provided to it. Due to the auction conducted by the bank without complying with such mandatory procedure, the amount of unearned income payable to the government as per the government resolution has not deposited to the government and the government has suffered a loss of revenue. Therefore, since the said auction was done at a lower rate than the market price, there is room to believe that the said auction was conducted in collusion of the Respondent no. 2 to 6. In such a situation, without complying with the mandatory condition, since the Respondents no. 2, 3 and 4 purchased by auction the encumbered property on an "as it is where is"



356

110

basis in the auction conducted by the Respondent no. 5 and 6, the auction purchasers along with the banks are liable to pay the Government's share of the unearned income, it would be appropriate to fix the liability on them.

- 14) Government revenue or any future taxes etc. as per Condition No. 11(i) in the Lease Agreement are to be paid by the lessee or occupant of the premises destroyed. As per the said condition, the Collector was required to give instructions to the present occupant to pay the unearned amount. Also, as per condition no. 11 (vii) in the lease agreement, the appellant was granted approval to mortgage the construction on the leased premises, i.e. if the lessee mortgages the land, it is required to obtain permission of the Government. Therefore, prior permission of the



111

Government/District Magistrate is not required before mortgaging the construction.

- 15) In view of the above discussion, since it will be appropriate to interfere with the impugned order of the Collector, Mumbai Suburban, I am passing the order as follows.

**ORDER**

- 1. The appeal of the appellant is partially allowed.
- 2. Collector, Mumbai Suburban, Order no. C/Desk/ 3D/L-235/736/2022 dated 13.07.2022 is being partially modified.
- 3. Issue No. 1 in the order dated 13.07.2022 of the Collector, Mumbai Suburban is being upheld.



358

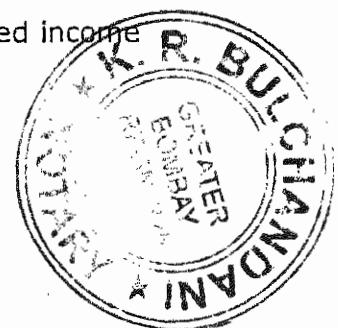
112

4. Issues number 2 to 7 of the order dated 13.07.2022 of the Collector, Mumbai Suburban are being cancelled.
5. After the appellant deposits the amount of Rs. 2,15,77,185/- to the government for construction time extension mentioned in issue no.1 of the Collector's order, necessary action shall be taken to remove the sai of the suit property. However, in this regard it shall be ascertained that under which sub-clause of no. 4(a) or 4(d)(i) of the Government Resolution No. of LND/ 4857/169146-AI dated 21/11/1957 the payment is required to be made by the applicant and action be taken to accept the payment.
6. Collector has mentioned in issue no. 2 in his order that as per the provisions of the amended Government Resolution dated 7.7.2017, the appellant shall deposit with the government the



licence amount of Rs. 7,10,78,279/- for sub-let for the period from 1.1.2007 to 6.7.2022. Actually, the appellant has sub-letted the said land to the respondents 2 to 4 on leave and licence. Therefore, it is necessary to file re-verification as to whether the said Government Resolution is applicable to the appellant or not and accordingly re-trial shall be conducted on the issue that who is liable to pay licence amount Rs. 7,10,78,279/- of the said sub-let and appropriate decision regarding recovery of the said amount from concerned shall be taken on merits/as per rules.

7. In the auction conducted by Respondent no. 5 and 6, since the Respondent No. 2 to 4 have purchased the encumbered property by auction on "as is where is" basis, the banks and the auction purchasers become liable to pay the liability of the government in unearned income





360

11A

as per the Government Resolution No. Land-  
2000/ C.R.135/L-1, dated 27.02.2009.  
Therefore, the Collector shall take action to  
recover unearned amount of Rs.  
58,11,65,226/- from the Respondent no. 2 to  
6.

8. No orders as to cost.
9. The decision shall be communicated to all  
concerned.

Place :- Mumbai

Date : 17.01.2023



Sd/-xxx

Kishan Javle (IAS)  
Additional Commissioner,  
Konkan Division

Copy to :- Collector, Mumbai Suburban for  
information

115

**CERTIFIED COPY**

Applied on 19/01/23	Copying fee Rs. 525/-
Copy prepared on 20/01/23	Comparing fee Rs. --
Copy delivered on 20/01/23	Urgency fee Rs.
	Total 525/-

Sd/-xxx

Naib Tehsildar (Appeals)

For the Divisional Commissioner

Konkan Division

TRUE COPY  
Advocate IOI.....



Exhibit 9

362



## जिल्हाधिकारी, मुंबई उपनगर जिल्हा

प्रशासकीय इमारत, १० वा मजला, शासकीय वसाहत, बांद्रा (पु)-५१  
दुरध्वनी क्र. ०२२-६९४०३३३३ ६९४०३३०० ईमेल- collectormsd@gmail.com

प्रति,

१. तहसिलदार, अंधेरी
२. नगर भूमापन अधिकारी, वांद्रे

माहिती अधिकाारी अधिनियम  
२००५ अंतर्गत माहिती

क्र.सी/कार्या-३डी/एल-२३५/१९८९/२२

दि. ११/११/२०२२

7 NOV 2022 16:18

**विषय :- जमीन : मुंबई उपनगर जिल्हा**

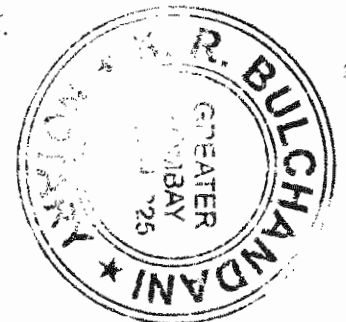
मौजे वांद्रे ता. अंधेरी स.नं. ३४१अ न.भू.क्र. ६२९/१२५२ मधील ४५१५ चौ.मी.  
भाडेपट्ट्याने प्रदान करण्यात आलेल्या जमिनीबाबत...

**संदर्भ :-** या कार्यालयाकडील समक्रमांकाचे आदेश दि. १३/०७/२०२२

मौजे वांद्रे ता. अंधेरी स.नं. ३४१अ न.भू.क्र. ६२९/१२५२ मधील ४५१५ चौ.मी. शासकीय जमीन मे. महाराष्ट्र थिएटर प्रा. लि. यांना ९९ वर्षांच्या भाडेपट्ट्याने प्रदान करण्यात आलेली आहे. सदर भाडेपट्ट्याने प्रदान करण्यात आलेल्या जमिनीच्या शर्तभंगाच्या अनुषंगाने या कार्यालयात सुनावणी होऊन संबंधितास त्यांचे म्हणणे मांडणेची संधी देवून या कार्यालयाकडील दि. १३/०७/२०२२ रोजी आदेश पारीत केलेले आहेत. सदर आदेशानुसार भाडेपट्टेदार संस्थेने केलेला शर्तभंग नैसर्गिक न्यायतत्वाच्या दृष्टीने नियमानुकूल करून घेण्याकरीता भाडेपट्टेदार मे. महाराष्ट्र थिएटर प्रा. लि. यांना संधी देणेत आलेली होती.

या कार्यालयाकडील दि. १३/०७/२०२२ रोजीच्या आदेशान्वये खालीलप्रमाणे आदेश पारीत केलेले आहेत.

- १) महाराष्ट्र थिएटर प्रा. लि. यांनी बांधकाम मुदतवाढीची रक्कम रु. २,१५,७७,१८५/- GRAS प्रणालीअंतर्गत ऑनलाईन ३० दिवसात शासनजमा करावी.
- २) महाराष्ट्र थिएटर प्रा. लि. यांनी दि. ०१/०१/२००७ ते दि. ०६/०७/२०२२ पर्यंत पोटभाड्याची अनुज्ञप्ती फी रक्कम रु. ७,१०,७८,२७९/- GRAS प्रणालीअंतर्गत ऑनलाईन ३० दिवसात शासनजमा करावी.
- ३) मौजे बांद्रा ता. अंधेरी स.नं. ३४१ पै न.भू.क्र. ६२९/१२५२ मधील शासकीय जमिनीवरील लिलावाद्वारे हस्तांतरित क्षेत्राकरीता ५०% अनर्जित रक्कम रु. ५८,११,६५,२२६/- महाराष्ट्र थिएटर प्रा. लि. यांनी GRAS प्रणालीअंतर्गत ऑनलाईन ३० दिवसात शासनजमा करावी. तसेच याव्यतिरिक्त सदर इमारतीमधील गहाण ठेवलेल्या व कोणकोणत्या बँकेकडून किती कर्जाची उभारणी केलेली आहे याबाबत माहिती जिल्हाधिकारी कार्यालयास ७ दिवसांत सादर करावी.



363

२०२२ अंतिम माहिती

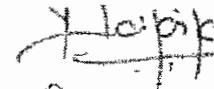
४) देना बँक (आता बँक ऑफ बडोदा) यांचे ताब्यात थिएटर व अलाहाबाद बँक (आता इंडियन बँक) यांचे ताब्यात दुसरा मजला आहे. सबब, या शासकीय इमारतीवर घेण्यात आलेल्या कर्जाची माहिती कर्ज घेताना सादर केलेली कागदपत्रासह जिल्हाधिकारी कार्यालयास सादर करावी. तसेच यापुढे शासकीय जमिनीचा/इमारतीमधील भाग लिलावाद्वारे विकण्यापूर्वी जिल्हाधिकारी/शासन यांची रितसर परवानगी घेण्यात यावी.

५) सादर इमारतीमधील कॅनरा बँक व अॅक्सीस बँकेकडून कर्जाच्या रक्कमेची माहिती प्राप्त करून घ्यावी तसेच शासन/जिल्हाधिकारी यांच्या पूर्वपरवानगीशिवाय लिलावाची कोणतीही कार्यपद्धती अवलंबण्यात येऊ नये असे स्पष्ट सूचना त्यांना देण्यात याव्यात.

६) आदेशातील अ. क्र. १ ते ३ मधील रक्कम महाराष्ट्र थिएटर प्रा. लि. यांनी शासनजमा केल्यानंतर ऑक्शनमध्ये खरेदी केलेल्या खरेदीदारांच्या अर्जावर पुढील कार्यवाही करण्यात यावी तसेच शासकीय जमिनीवर खरेदीदार यांना कशा प्रकारे भाडेपट्ट्याचे हक्क देण्यात यावेत? यासंदर्भात शासनाकडून मार्गदर्शन प्राप्त करून घ्यावे.

७) आदेशातील अ. क्र. १ ते ३ मधील रक्कम विहित मुदतीत महाराष्ट्र थिएटर प्रा. लि. यांनी शासनजमा न केल्यास करारनाम्यातील अट क्र. २० नुसार जमीन बांधकामासह शासनजमा करण्याची कार्यवाही तहसिलदार, अंधेरी व नगर भूमापन अधिकारी, वांद्रे यांनी करावी.

तथापि, आदेशातील मुद्दा क्र. १ ते ३ नुसार निर्देशित केलेली रक्कम विहित मुदतीत भाडेपट्टेदार यांनी भरणे न केल्याने शर्तभंग नियमानुकूल न झाल्याने भाडेपट्टा करारनाम्यातील अट क्र. २० "That the land with structure thereon will be liable to be resumed to Government without payment of any compensation for breach of the above conditions" नुसार तसेच या कार्यालयाकडील दि. १३/०७/२०२२ रोजीच्या आदेशान्वये आदेशीत केल्याप्रमाणे तहसिलदार, अंधेरी व नगर भूमापन अधिकारी, वांद्रे यांना मे. महाराष्ट्र थिएटर प्रा. लि. यांना भाडेपट्ट्याने प्रदान केलेली शासकीय जमीन बांधकामासह शासनजमा करावी. त्यानुसार अभिलेख सदरी तशा नोंदी घेऊन पुर्तता अहवाल या कार्यालयास सादर करावा.



(विकास नाईक)

निवासी उपजिल्हाधिकारी,

मुंबई उपनगर

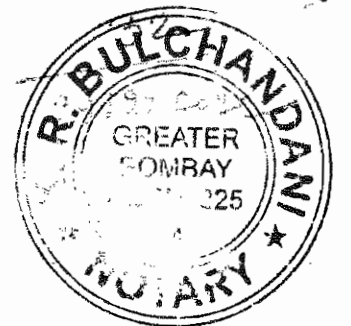
स्थळ प्रतीवर मा. जिल्हाधिकारी यांची सही असे.

प्रत:- १) मा. अपर मुख्य सचिव (महसूल), महसूल व वन विभाग, मंत्रालय, मुंबई यांना माहितीस्तव सविनय सादर  
२) मे. महाराष्ट्र थिएटर प्रा. लि. आर.एन.ए. पार्क, जिल्हाधिकारी कार्यालयाच्या जवळ, वांद्रा (पूर्व), मुंबई

True Copy

Advocate For Plaintiffs / Petitioners

५३२१  
नगर भूमापन अधिकारी वांद्रे  
दि. १३/०७/२०२२  
विषय: न. म. / लेखा / आस्थापना /  
आवक क्र. ३९५० विवरण क्र.



न. म. अ. वांद्रे

**Exhibit- Q-1****District Collector, Mumbai Suburban District****Administrative Building, 10<sup>th</sup> floor, Government Colony Bandra (East) -51****Telephone no. 022-69403333 69403300 Email- collectornsd@gmail.com****No. C./Desk-3,D/L-235/1189/22****Date: 07/11/2022**

To,

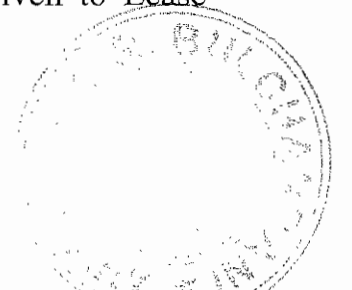
1. Hon'ble Tahsildar Andheri
2. City Survey Officer, Bandra

**Subject :-** Land: Mumbai Suburban District

Regarding the land at Mouje Bandra, S.N.341A,C.S.N.629/1252,  
area - 4515 Square Meters granted on lease.

**Ref :-** This office's order with same number dt. 13/07/2022

The Government Land at Mouje Bandra, Survey No. 341A, C.S.N.629/1252, Area – 4515 Square Meters has been given on 99 years lease to Maharashtra Theater Pvt. Ltd. In accordance with the violation of the condition of the land provided by the said lease, by arranging the hearing in this office and giving opportunity to the concerned to present their says, the order dated 13/07/2022 has been passed by this office. According to the said order, in view of the principles of natural justice the opportunity was given to Lease



Holder M/s Maharashtra Theatre Pvt. Ltd., in order to regularize the breach of condition committed by it.

Vide the order dated 13/07/2022 of this office, the order has been passed as mentioned hereunder.

1) Maharashtra Theater Pvt. Ltd. should be deposited the amount of Rs. 2,15,77,185/- towards construction extension through GRAS online System online within 30 days.

2) Maharashtra Theater Pvt. Ltd. Should be deposited amount of Rs. 7,10,78,279/- towards License fee by online way within 30 days, through GRAS system.

3) For the area on Government land at Mouje Bandra, Tahsil – Andheri, S.No.341 (P), C.S.N.629/1252 transferred by auction 50% unearned amount of Rs.58,11,65,226/- should be paid by the Maharashtra Theater Pvt. Ltd., to the government by online within 30 days through under GRAS system. Also, information about the mortgage in the said building and how much loan has been raised from bank should be submitted to the District Collector's office within 7 days.

4) Dena Bank (now Bank of Baroda) occupies the theater and Allahabad Bank (now Indian Bank) occupies the second floor. Hence, the information of the loan taken on this government building should be submitted to the collector



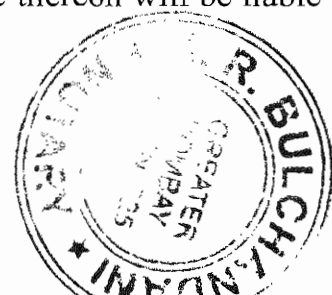
office along with the documents submitted while taking the loan. Also hereinafter proper permission of Collector/Government should be taken before selling the part of Government land/portion in the building through auction.

5) Information about loan amount on the said building should be obtained from Canara Bank and Axis Bank and clear instructions should be given to them that no procedure of auction should be followed without prior permission of Government/District Collector.

6) After depositing the amount mentioned in SR. No. 1 to 3 of the said order by the Maharashtra Theater Pvt. Ltd., the further action should be taken on the application of the buyers who bought in the auction and regarding how the lease rights should be given to the buyers on the government land guidance should be taken from the government.

7) If the amount mentioned in the Sr. No. 1 to 3 of the order is not paid by the Maharashtra Theater Pvt. Ltd. in prescribed time limit the procedure for land acquisition along with land construction to the government should be done by Tehsildar, Andheri and City Land Survey Officer, Bandra.

However, as the breach of the conditions has not been regularized on account of the amount directed in the point No.1 to 3 has not been paid by the lessee within the prescribed time in accordance with the terms of the lease agreement, condition No. 20 "That the land with structure thereon will be liable



367

to be resumed to Government without payment of any compensation for breach of the above conditions" and also as per the orders of this office dated 13/07/2022, the land leased to M/s Maharashtra Theater Pvt., including the construction thereon should be recovered by the Tehsildar, Andheri and City Survey Officer, Bandra and to return the government and by taking the record/entry of the same compliance report should be submitted to the government.

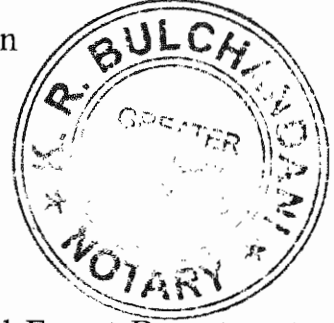
(Vikas Naik)

Residential Deputy Collector,  
Mumbai suburban

Counter file has been signed by the District Collector

Copy to:-

- 1) Hon'ble Additional Secretary (Revenue), Revenue and Forest Department, Mantralaya, Mumbai
- 2) M/s Maharashtra Theater Pvt. Ltd. R. N. A. Park, Near District Collector Office, Bandra (East), Mumbai.



City Survey Officer, Bandra

Entered on dated 14/11/2022

Sub.: C.S./Accounts/ Establishment/Inward No. 3157 Particular No.





## महाराष्ट्र शासन

जमाबंदी आयुक्त आणि संचालक भूमिअभिलेख महाराष्ट्र राज्य, पुणे

नगर भूमापन अधिकारी, वांद्रा

१ ला मजला, म्युनिसिपल कॉरिडोर कंपाऊंड, एस. व्ही. रोड, सांताक्रुझ (प),

ता. अंधेरी, जि. मुंबई उपनगर, पिन नं - 400054

ई-मेल - bandracts@gmail.com

दूरध्वनी क्र. - 02226128110

## फेरफार नोंदवही - शाव/पेट - वांद्रा (पुर्त)

फेरफार क्र. य दिनांक	व्यवहार	नविन धारक(धा) पड्डेदार(प) किंवा गार	परिणाम झालेले न.मु.क्र.
28 30/01/2023	आदेशाने नोंद - जिल्हाधिकारी, मुंबई उपनगर जिल्हा यांचे कडील आदेश क्र. : क्र.सी/नॉन- 3क्र/एल-235/736/2022 दि. : 13/07/2022 अन्वये आदेशातील अ.क्र. १ ते ३ मधील रक्कम विहित मुदतीत शासन जमा न केल्याने महाराष्ट्र शिपर प्रा.लि. यांना शासन निर्णय दि. १८/६/१९६९ व मा. जिल्हाधिकारी, मुंबई उपनगर यांचेकडील आदेश दि. ११/९/१९६९ अन्वये भाडेपट्ट्याने प्रदान करणेत आलेली सोजे - बट्टे येथील स.न.३४१अ, न.मु.क्र.६२९/१२५२, क्षेत्र ४५५५ चौ.मी. जमीन शासन जमा करणेत येत असून सदर आदेशातील अ.क्र.१० अन्वये न.मु.क्र. ६२९/१२५२ या मिळकतीचे मिळकत पत्रिकेवरील दाखल असलेले पड्डेदार महाराष्ट्र शिपर प्रा.लि. हे नाव कमी करून मुळ धारक महाराष्ट्र शासन कायम केलेची नोंद केली.	नविन धारक(धा) पड्डेदार(प) किंवा गार	परिणाम झालेले न.मु.क्र.
			629/1262 शिपरस Digitally Signed On - 30/01/2023 by भावना उदय नाखवा प.मु. नगर भूमापन अधिकारी, वांद्रा मुंबई उपनगर

संदर्भ :- आ.क्र. - 2206/2301/1500057, भा.दि. - 30/01/2023



True Copy

Advocate For Plaintiffs / Petitioners

**Exhibit-R-1****Government of Maharashtra****Jamabandi Commissioner and Director Land Records, Maharashtra State  
Pune**

City Survey Officer, Bandra

1<sup>st</sup> floor, Municipal Garage Compound, S.V. Road, Santacruz (W), Mumbai

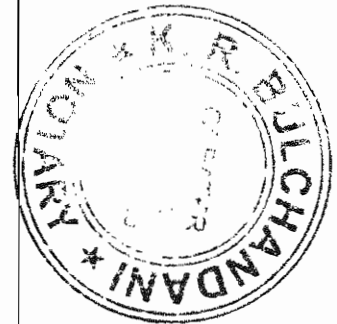
Tahsil – Andheri, District – Mumbai Suburban, Pin – 400054

Email bandraactso@gmail.com

Telephone No.02226128110

**Mutation Entry No. Village/Locality – Bandra (E)**

Mutation Entry No and Date	Transaction	New Lease Holder Lessee Charge	The Affected C.S.N.	Attestation
28 30/01/2023	Entered by order As the amount mentioned in the Sr. No.1 to 3 of the order No. C/Desk-3D/L235/736/2022, dated 13/-7/2022 of Mumbai Suburban District has not been paid to the government in the prescribed time, the land at Mouje Bandra, Survey No. 341A, C.S.N. 629/1252, AREA – 4515 Sq. Mt. allotted on lease basis to the Maharashtra Theatre Pvt. Ltd., vide the government		629/1252	Recommendation Digitally signed on – 30/01/2023, by Bhavna Uday Nakhva P.L.H. CitySurvey Officer Bandra, Mumbai Suburba



370

	<p>resolution dated 18/6/1969 and the order dated 11/9/1969 passed by Hon'ble District Collector, Mumbai Suburban District being taken back to the government and as per the Sr. No. 7 of the said order, the name of Maharashtra Theatre Pvt. Ltd., entered on the property card of the said property is being deleted and instead of the same name of the original holder i.e. Government of Maharashtra is entered as a holder.</p>			
--	--	--	--	--

Ref:- In.No. 2205/2301/1500057, I.N.30/01/2023



Received at: 29/8/23 9:21:00 pm Exhibit S. 371

# MAHARASHTRA THEATRES PRIVATE LIMITED

Regd. Office: RNA Corporate Park, Next to Collector's Office, Kalanagar, Bandra (E), Mumbai – 400051

Corres. Add.: 708, Raheja Centre, 7th Floor, Nariman Point, Mumbai – 400 021

Phone : +91 22 66107430/33 | Email : [mtpcirt@gmail.com](mailto:mtpcirt@gmail.com) Website : <https://mtpcirt.co.in>

CIN : U92110MH1969PTC014480

Company under Corporate Insolvency Resolution Process vide order of Hon'ble NCLT, Mumbai Bench passed on 31<sup>st</sup> March 2023

14<sup>th</sup> August 2023

OIC  
The Collector

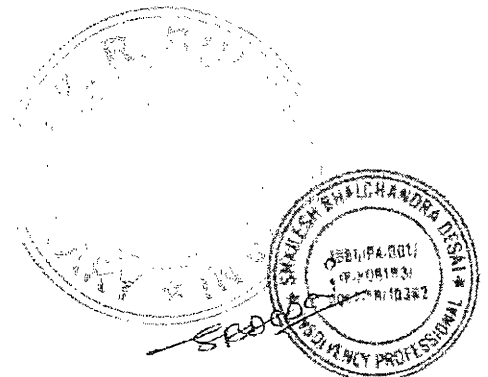
Mumbai Suburban District,  
10<sup>th</sup> Floor, Administrative Building,  
Government Colony,  
Bandra (East), Mumbai 400051

Ref: Your letter dated 7<sup>th</sup> November, 2022

Dear Sir/Madam,

I, Mr. Shailesh Desai, Resolution Professional of Maharashtra Theatres Private Limited which was admitted to Corporate Insolvency Resolution Process ("CIRP") under Insolvency and Bankruptcy Code, 2016 vide order dated 31.03.2023 of Ld Adjudicating Authority, Mumbai in CP. No. 115(IB)-MB-V/2021 (a copy of said order enclosed at Annexure 'A' herewith) having address at C/o. Headway Resolution and Insolvency Services Pvt Ltd, 708, Raheja Centre, 7th Floor, Nariman Point, Mumbai - 400 021 wish to address as follows:

1. On or about 18.06.1969, the Government of Maharashtra, Revenue and Forest Department granted lease of all that piece and parcel of land admeasuring 4515 sq. mt. bearing Survey No. 341-A, CTS No. 629/1252 of village Bandra (East) to Maharashtra Theatres Private Limited ("MTPL") for 99 years against payment of rent, and subject to other terms and conditions set out therein ("Leasehold Land/Lease"). A formal order to this effect was passed by the Additional Collector, B.S.D. on or about 11.09.1969. A copy of said order dated 11.09.1969 is enclosed at Annexure 'B' herewith.



372

# MAHARASHTRA THEATRES PRIVATE LIMITED

Regd. Office: RNA Corporate Park, Next to Collector's Office, Kalanagar, Bandra (E), Mumbai – 400051

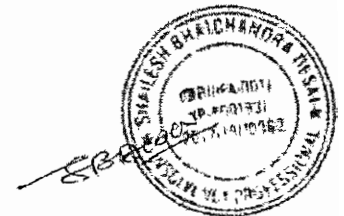
Corres. Add.: 708, Raheja Centre, 7th Floor, Nariman Point, Mumbai – 400 021

Phone : +91 22 66107430/33 | Email : [mtplcirp@gmail.com](mailto:mtplcirp@gmail.com) Website : <https://mtpl.cirp.co.in>

CIN : U92110MH1969PTC014480

Company under Corporate Insolvency Resolution Process vide order of Hon'ble NCLT, Mumbai Bench passed on 31<sup>st</sup> March 2023

2. The usage of the said Leasehold Land was modified from time to time by diverse orders, last which permitted utilization of not less than 10% FSI for cinema and upto 90% FSI for construction of offices as per Memorandum dated 7.11.2001 issued by Maharashtra Government. A copy of said Memorandum dated 7.11.2001 is enclosed at **Annexure 'C'** herewith.
3. Thereafter, on or about 23.11.2001 another order was passed by the Revenue and Forest Department fixing norms of recovery of unearned income by transfer/renting. A copy of said order dated 23.11.2001 is enclosed at **Annexure 'D'** herewith.
4. By order dated 12.12.2001, your good office fixed an annual rent of Rs. 82,381/- (Rupees Eighty Two Thousand Three Hundred Eighty One only). Accordingly, MTPL constructed a building comprising of basement +cinema theatre, bank, parking and office floors. A copy of said order dated 12.12. 2001 is enclosed at **Annexure 'E'** herewith.
5. On 5.12.2005 the Government of Maharashtra executed the Lease Agreement in favour of MTPL. A copy of said agreement dated 5.12.2005 is enclosed at **Annexure 'F'** herewith.
6. On 7.6.2006, the MCGM being the Planning Authority issued an Occupation Certificate ('OC') bearing reference no. CE/6633/BS-II/AI for the new building. A copy of said OC is enclosed at **Annexure 'G'** herewith.
7. On 14.9.2012, MTPL/Lessee through its then Director executed a Simple Mortgage Deed in favour of Dena Bank Ltd now merged with Bank of Baroda in respect of various portions of the superstructure of the building constructed on the said



# MAHARASHTRA THEATRES PRIVATE LIMITED

Regd. Office: RNA Corporate Park, Next to Collector's Office, Kalanagar, Bandra (E), Mumbai – 400051

Corres. Add.: 708, Raheja Centre, 7th Floor, Nariman Point, Mumbai – 400 021

Phone : +91 22 66107430/33 | Email : [mtplcirp@gmail.com](mailto:mtplcirp@gmail.com) Website : <https://mtpl.cirp.co.in>

CIN : U92110MH1969PTC014480

Company under Corporate Insolvency Resolution Process vide order of Hon'ble NCLT, Mumbai Bench passed on 31<sup>st</sup> March 2023

Leasehold Land which is now known as 'RNA Corporate Park' being offered as a security towards the repayment of the said loan availed by MTPL/Lessee from the said bank. The said mortgage was duly registered in the office of Joint Sub Registrar, Andheri – 1.

8. MTPL/Lessee from time to time created mortgages on various floors of the building as a security for repayment of loan availed by MTPL and/its group companies in favour of Dena Bank (Now Bank of Baroda) and Allahabad Bank (now Indian Bank). The said mortgages were duly registered with the concerned authorities.
9. On 11.01.2017, Government of Maharashtra framed a policy regarding granting extension of time for building construction & completion in respect of the Government lands which are leased to various parties by, providing for charging a prescribed premium for the purpose.
10. On 4.10.2018, your good office issued a notice of demand to MTPL extension of time contending that the construction was required to be completed within 2 (two) years i.e. till 2003, but was completed on 7.7.2006 and hence, according to the Government Policy dated 11.01.2017, the premium set out therein was demanded. A copy of said notice dated 4.10.2018 is enclosed at Annexure 'H' herewith.
11. By diverse agreements of leave and license, various portion of floors of the building were given on leave and license basis to different parties by MTPL.
12. Meanwhile, the said Indian Bank and Bank of Baroda initiated proceedings under the SARFAESI ACT, 2002 ("said Act") in respect of their mortgaged security on account of alleged default in repayment of the loan/s facilities availed by MTPL.



# MAHARASHTRA THEATRES PRIVATE LIMITED

Regd. Office: RNA Corporate Park, Next to Collector's Office, Kalanagar, Bandra (E), Mumbai – 400051

Corres. Add.: 708, Raheja Centre, 7th Floor, Nariman Point, Mumbai – 400 021

Phone : +91 22 66107430/33 | Email : [mtp|cirp@gmail.com](mailto:mtp|cirp@gmail.com) Website : <https://mtp|cirp.co.in>

CIN : U92110MH1969PTC014480

Company under Corporate Insolvency Resolution Process vide order of Hon'ble NCLT, Mumbai Bench passed on 31<sup>st</sup> March 2023

- 374
13. Pursuant thereto, the said Indian Bank and Bank of Baroda auctioned the units held as security by them respectively and issued four Sale Certificates respectively under rule 9 (6) of the Security Interest (Enforcement) Rules, 2002 in respect of the aforesaid four separate units on four separate floors. Incidentally, the said units were acquired by the same parties who were then occupying the respective units as licensees.
  14. On 29.8.2019, your good office issued notices *inter-alia* to MTPL contending that the e-auctions conducted by the said Banks were illegal as the same was in violation of Circular dated 27.02.2009.
  15. However, the hearing could not take place because of COVID 19 Pandemic.
  16. On 22.02.2021, your good office issued another notice to MTPL fixing the hearing on 1.03.2021. In this notice, apart from a sum of Rs. 1,07,88,600/- (Rupees One Crore Seven Lakhs Eighty-Eight Thousand Six Hundred only) which was earlier demanded vide letter dated 4.10.2018 for not completing the construction within time, a further sum of Rs. 1,28,91,000/- (Rupees One Crore Twenty Eight Lakhs Ninety-One Thousand only) was also demanded being 1% of the loan amount of Rs. 1,28,91,00,000 (Rupees One Twenty Eight Crores Ninety One Lakhs only) on the ground that the mortgage in favour of Bank of Baroda (erstwhile Dena Bank) was done without permission. On the same day, a separate notice was issued by your good office to Dena Bank (now Bank of Baroda) demanding a sum of Rs. 5,04,11,501/- (Rupees Five Crores Four Lakhs Eleven Thousand Five Hundred One Only) towards the transfer premium.



# MAHARASHTRA THEATRES PRIVATE LIMITED

Regd. Office: RNA Corporate Park, Next to Collector's Office, Kalanagar, Bandra (E), Mumbai – 400051

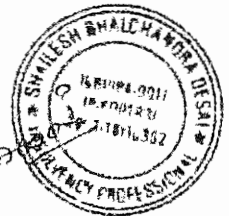
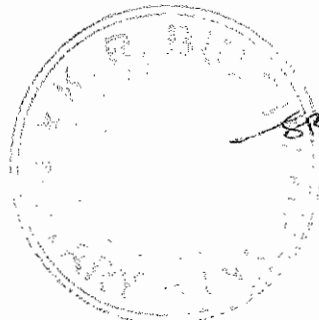
Corres. Add.: 708, Raheja Centre, 7th Floor, Nariman Point, Mumbai – 400 021

Phone : +91 22 66107430/33 | Email : [mtplcirp@gmail.com](mailto:mtplcirp@gmail.com) Website : <https://mtpl.cirp.co.in>

CIN : U92110MH1969PTC014480

Company under Corporate Insolvency Resolution Process vide order of Hon'ble NCLT, Mumbai Bench passed on 31<sup>st</sup> March 2023

17. On 1.04.2022, your good office issued a fresh show cause notice alleging various irregularities *inter-alia* (1) not completing the construction within 2 (two) years from 15.11.2001 (2) Non-payment of the lease rent to the Government, (3) failure of the Banks and financial institutions to comply with the government memorandum dated 4.09.1997 and the order of the Collector dated 1.01.1998 whereby the Government had a first charge on entire outstanding lease rent and 50% unearned income in case of sale of property by foreclosure of the mortgage and of the failure of the Banks to foreclose give an advance notice of 90 (ninety) days to the Government of Maharashtra before foreclosing the loan and (4) creation of mortgages of the basement, 2nd , 4th and 5th floor allegedly unauthorizedly and subsequent sale of the said floors in the auction. The hearing was fixed on 7.04.2022.
18. On 25.04.2022, MTPL submitted its detailed reply to the amended show-cause notice dated 1.04.2022. The other parties also submitted their respective replies and your good office upon hearing all the parties reserved the matter for final order. A copy of said reply dated 25.04.2022 is enclosed at **Annexure 'T'** herewith.
19. Vide Order dated 13.07.2022 bearing No. C/Desk-3D/L-235/736/202 passed by your good office, MTPL was directed to pay within 30 days a sum of (i) Rs.2,15,77,185/- (Rupees Two Crores Fifteen Lakhs Seventy-Seven Thousand One Hundred Eighty-Five Only) towards the alleged premium for extension of time for completion of construction (ii) Rs. 7,10,78,279/- (Rupees Seven Crores Ten Lakhs Seventy-Eight Thousand Two Hundred Seventy-Nine only) towards the purported license fee/premium for sub-letting the several portion of the property from 1.1.2007 to 6.7.2022 (iii) Rs. 58,11,65,226/- (Rupees Fifty-Eight Crores Eleven Lakhs Sixty-Five Thousand and Two Hundred Twenty-Six Only) towards alleged amount of 50% of unearned income, failing which the said Leasehold Land with building





# MAHARASHTRA THEATRES PRIVATE LIMITED

Regd. Office: RNA Corporate Park, Next to Collector's Office, Kalanagar, Bandra (E), Mumbai – 400051

Corres. Add.: 708, Raheja Centre, 7th Floor, Nariman Point, Mumbai – 400 021

Phone : +91 22 66107430/33 | Email : [mtplcirp@gmail.com](mailto:mtplcirp@gmail.com) Website : <https://mtpl.cirp.co.in>

CIN : U92110MH1969PTC014480

Company under Corporate Insolvency Resolution Process vide order of Hon'ble NCLT, Mumbai Bench passed on 31<sup>st</sup> March 2023

constructed thereon to be resumed in the Government of Maharashtra (iv) direction to Dena Bank (now Bank of Baroda) & Allahabad Bank (now Indian Bank) provide loan details alongwith documents to be submitted to the Collector office and for future sale, permission to be obtained from the Collector office (v) information from Canara Bank & Axis Bank about loan amount called for & for future sale, permission to be obtained from the Collector office (vi) once amount mentioned at sr. no. (i) to (iii) is paid by MTPL, further action to be taken on applications filed by the auction buyers and what lease right to the given to the buyer of the government land, the same to be decided by the government & (vii) direction to Tahsildar, Andheri & CTS Officer, Bandra, if the amount mentioned at sr. no. (i) to (iii) is not paid by MTPL, as per clause no. 20 of lease agreement, the land to be vested unto the government of Maharashtra.

20. The said Order dated 13.07.2022 of yourself was challenged by appeal by MTPL before the Hon'ble Additional Commissioner Konkan Division. After completion of pleading and after hearing all concerned parties, vide Order dated 17.01.2023, the Hon'ble Additional Commissioner Konkan Division, Mumbai inter-alia passed the following order:

- i. *The Appeal was partially allowed.*
- ii. *Collector's order dated 13.7.2022 was partially modified.*
- iii. *MTPL (Respondent No.3) was directed to pay a sum of Rs. 2,15,77,185/- to Government towards extension of period for construction of building on the leased property.*
- iv. *Issues number 2 to 7 of the order dated 13.7.2022 of the Collector are being cancelled.*



# MAHARASHTRA THEATRES PRIVATE LIMITED

Regd. Office: RNA Corporate Park, Next to Collector's Office, Kalanagar, Bandra (E), Mumbai – 400051

Corres. Add.: 708, Raheja Centre, 7th Floor, Nariman Point, Mumbai – 400 021

Phone : +91 22 66107430/33 | Email : [mtplicirp@gmail.com](mailto:mtplicirp@gmail.com) Website : <https://mtpl.cirp.co.in>

CIN : U92110MH1969PTC014480

Company under Corporate Insolvency Resolution Process vide order of Hon'ble NCLT, Mumbai Bench passed on 31<sup>st</sup> March 2023

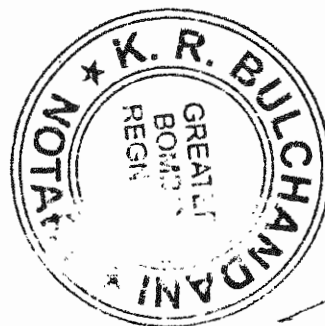
- v. The Collector was directed to undertake re-trial of the issue relating to payment of a sum of Rs.7,10,78,279/- to the Government towards license fee earned by MTPL (Respondent No.3) on account of giving various floors of the super structure on leave and license.
- vi. The mortgagee banks who had auctioned various floors and the respective auction purchasers were directed to pay to the Government a sum of Rs. 58,11,65,226/- towards 50% unearned income generated from auction of the floors in question as the property was auctioned on "as is where is" basis.

A copy of said order dated 17.01.2023 is enclosed at **Annexure 'J'** herewith.

21. While the above appeal was pending, vide letter dated 7.11.2022, your good office directed Tahsildar, Andheri and CTS Officer, Bandra to resume the said Leasehold Land with building constructed thereon unto the Government of Maharashtra. A copy of said letter dated 7.11.2022 is enclosed at **Annexure 'K'** herewith.

22. In spite of the above order dated 17.01.2023 of the Additional Commissioner Konkan Division, Mumbai, the CTS Officer, Bandra has passed and recorded a mutation on 31.01.2023 vide Mutation Entry No. 28, whereby the name of MTPL was deleted as lessee of said Leasehold Land and name of the Government of Maharashtra recorded as the holder on the Property Card. A copy of said Mutation Entry No. 28 is enclosed at **Annexure 'L'** herewith.

23. Aggrieved by order 17.01.2023 of the Additional Commissioner Konkan Division, Mumbai, the auction purchasers filed a revision application before the Hon'ble Revenue Minister, Ministry of Revenue, Government of Maharashtra. The same is pending for hearing and final disposal.



# MAHARASHTRA THEATRES PRIVATE LIMITED

Regd. Office: RNA Corporate Park, Next to Collector's Office, Kalanagar, Bandra (E), Mumbai - 400051

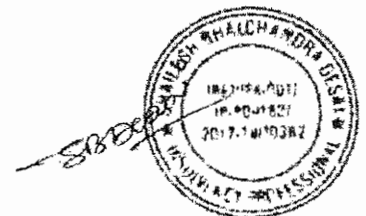
Corres. Add.: 708, Raheja Centre, 7th Floor, Nariman Point, Mumbai - 400 021

Phone : +91 22 66107430/33 | Email : [mtplcirp@gmail.com](mailto:mtplcirp@gmail.com) Website : <https://mtpl.cirp.co.in>

CIN : U92110MH1969PTC014480

Company under Corporate Insolvency Resolution Process vide order of Hon'ble NCLT, Mumbai Bench passed on 31<sup>st</sup> March 2023

24. During the pendency of the present Revision Application before the Hon'ble Revenue Minister, Ministry of Revenue, Government of Maharashtra, petition bearing number CP No. 115/(IB)-MB-V/2021 against MTPL is admitted before the Hon'ble NCLT, Mumbai and Corporate Insolvency Resolution Process has commenced vide order dated 31.3.2023 of the Hon'ble NCLT, Mumbai and accordingly, Resolution Professional is appointed by the NCLT, Mumbai for MTPL.
25. Furthermore, vide the commencement of Corporate Insolvency Resolution Process, the Corporate Debtor namely MTPL, is protected by a Moratorium as per Section 14 of Insolvency & Bankruptcy Code, 2016, prohibiting the institution of suits or continuation of pending suits or proceedings against MTPL including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority as provided in paragraph "d" on page 11 of the said order dated 31.03.2023 of the NCLT, Mumbai. (Copy of said order enclosed as above). Thus, while the aforesaid mutation entry dated 31.01.2023 is liable to be reversed, pending its reversal, no further action pursuant to the said mutation entry cannot be taken.
26. In the above facts and circumstances without prejudice to what is stated hereinabove, it is submitted that as on date MTPL's confirmed liability is restricted upto Rs.2,15,77,185/- towards penalty for extension of period for construction of building on the Leasehold Land as per order dated 17.01.2023 of the Hon'ble Additional Commissioner Konkan Division, Mumbai. As regards the other penalties imposed by the said order dated 13.07.2022 of the Collector, nothing stands against the Corporate Debtor i.e. MTPL. The penalty for Rs. 7,10,78,279/- has been quashed by Hon'ble Additional Commissioner Konkan Division, Mumbai & the penalty of Rs. 58,11,65,226/- has been cast upon the auction buyers. The same has also been appealed against.



# MAHARASHTRA THEATRES PRIVATE LIMITED

Regd. Office: RNA Corporate Park, Next to Collector's Office, Kalanagar, Bandra (E), Mumbai – 400051

Corres. Add.: 708, Raheja Centre, 7th Floor, Nariman Point, Mumbai – 400 021

Phone : +91 22 66107430/33 | Email : [mtplcirp@gmail.com](mailto:mtplcirp@gmail.com) Website : <https://mtpl.cirp.co.in>

CIN : U92110MH1969PTC014480

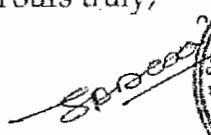

Company under Corporate Insolvency Resolution Process vide order of Hon'ble NCLT, Mumbai Bench passed on 31<sup>st</sup> March 2023

27. All said & done, MTPL is willing to pay the said Rs.2,15,77,185/- by putting the said amount in resolution plan, being the only liability cast upon the Corporate Debtor i.e. MTPL in compliance of order dated 13.07.2022 of the Collector & upheld by order dated 17.01.2023 of Additional Commissioner Konkan Division, Mumbai.

28. In view of the same, we request to your good office to cancel the Mutation No. 28 dated 31.1.2023 and reinstate name of MTPL as Lessee "Pattedar" with immediate effect in revenue record i.e. Property Card. A challan may kindly be issued for a sum of Rs. 2,15,77,185/- for forthwith payment thereof.

Please note that the issue at hand, is so far as the Applicant is concerned, is straight & narrow. There is a confirmed liability of Rs. 2,15,77,185/-, which the Corporate Debtor i.e. MTPL is willing to pay the said confirmed liability by putting the said amount in resolution plan as per the provisions of IBC, 2016. There are no disputed facts involved in the matter at hand. Hence, a quick decisive action shall foreclose further litigation.

Yours truly,

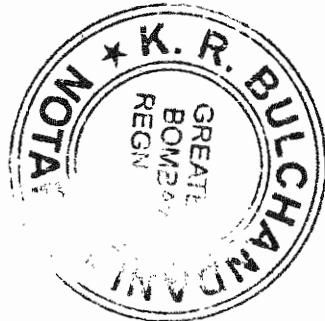
  


Mr. Shailesh Desai


Resolution Professional of Maharashtra Theatres Private Limited

IBBI Registration No. IBBI/PA-001/IP-P00183/2017-18/10362

Encl: As above



True Copy

  
 Advocate For Plaintiffs / Petitioners

## IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. OF 2023

Maharashtra Theatres Private Limited &amp; Anr Petitioners

Versus

The State of Maharashtra &amp; Ors. Respondents

I, Mr. Shailesh Desai, the Petitioner No.2 herein and Resolution Professional of Maharashtra Theatres Private Limited having address at C/o. Headway Resolution and Insolvency Services Pvt Ltd, 708, Raheja Centre, 7th Floor, Nariman Point, Mumbai-400 021, hereby solemnly affirm and state as under:-

1. I say that I have made myself conversant with the facts of the case and able to depose the same.
2. I say that the above Petition is filed challenging the order/letter dated 7.11.2022 (Exhibit Q to the Petition) and Mutation Entry No. 28 dated 30.03.2023 (Exhibit-R to the Petition) the deleting the name of MTPL as lessee from the revenue records i.e. Property Card in respect of the Leasehold Land and for reliefs as stated therein and for interim and ad-interim reliefs. I crave leave to refer and rely upon what is stated in the Petition and pray that the same be treated as part and parcel of this Affidavit.
3. I say that for the reasons and submissions more particularly set out in the Petition, the reliefs as prayed for be granted.



4. In the circumstances, I pray that the said Petition be made absolute with costs.

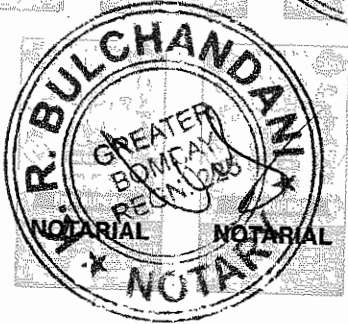
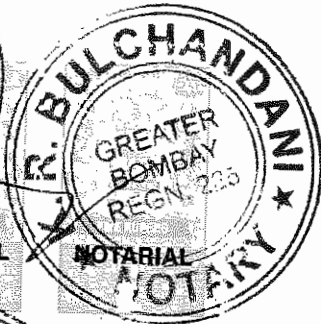
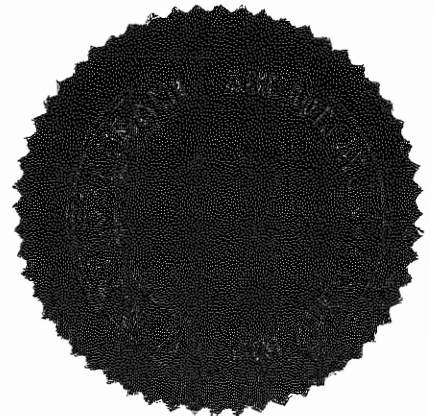
Solemnly declared at Mumbai )

this <sup>18</sup> day of September 2023 )

Veenu Khatri  
Advocate for the Petitioners



Before me



18/09/2023  
K.R. BULCHANDANI  
Advocate, & Solicitor  
Notary, Greater Bombay  
709, 7<sup>th</sup> Floor, Raheja Centre,  
Free Press Journal Marg,  
Nariman Point, Mumbai - 400 021.  
Regn. No. 225

Notarial Register  
Sr. No.: 1749/2023  
Date: 18/09/2023

*Veenu Chunilal Khatri*

*Advocate*

*Block No.76, Room No.1, Malabar Hill Road, Mulund Colony  
Bombay 400 082*

*Mobile: 9820056118*

*Address for Correspondence:*

*Shop No.9B, Ground floor, Sukhia Building, Fort, 14A Cawasjee Patel  
Street, Mumbai 400001*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. OF 2023

Maharashtra Theatres Private Limited & Anr Petitioners

VERSUS

The State of Maharashtra & Ors. Respondents

To,

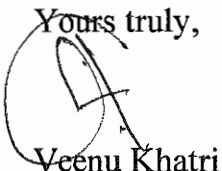
The Prothonotary & Senior Master,  
High Court,  
Bombay,

Sir,

This is to certify that the issue in the above Petition falls under Rule 636(1)(a) of the High Court Rules, Original Side, 1980 and the above Petition is to be heard and disposed of by Single Judge of this Hon'ble Court.

Dated this <sup>th</sup>18 day of September 2023

Yours truly,



Veenu Khatri  
Advocate for the Petitioners



HIGH COURT

O. O. C. J.

WRIT PETITION NO. OF 2023

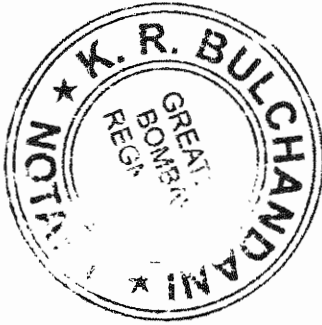
Maharashtra Theatres Private Limited & Anr  
Petitioners

VERSUS

The State of Maharashtra & Ors. Respondents

**WRIT PETITION**

Dated this day of September 2023



Veenu Khatri  
Advocate for the Petitioner  
Block No.76, Room No.1  
Malabar Hill Road  
Mulund Colony  
Mumbai 400 082  
Mobile 9820056118  
Email: veenukhatri@yahoo.co.in  
Bar Council Registration: MAH/1354/1991  
Advocate's Code 29618



HIGH COURT

O. O. C. J.

WRIT PETITION NO. OF 2023

Maharashtra Theatres Private Limited & Anr  
Petitioners

VERSUS

The State of Maharahta & Ors. Respondents

**WRIT PETITION**

Dated this day of September 2023



Veenu Khatri  
Advocate for the Petitioner  
Block No.76, Room No.1  
Malabar Hill Road  
Mulund Colony  
Mumbai 400 082  
Mobile 9820056118  
Email: veenukhatri@yahoo.co.in  
Bar Council Registration: MAH/1354/1991  
Advocate's Code 29618

## Check List

Petition should be typed in Double Line Spacing with 14 Fonts Size in the following sequence.

- 1) Index
- 2) Proforma (3 pages)
- 3) Synopsis (As per Practice Note 43 and 51)
- 4) Petition
- 5) Vakalatnama (as per Form 3 of O.S. Rules)
- 6) Memorandum of Registered Address
- 7) List of Documents
- 8) Exhibits (All Exhibits should be Certified as True Copy by Advocate)
- 9) Affidavit-in-Support.
- 10) Advocates Certificates
- 11) Presentation Form
- 12) Check List Form
- 13) Double Docket.

Writ Petition Lodg. No. \_\_\_\_\_ of 20 \_\_\_\_\_

Received for Scrutiny on \_\_\_\_\_

Sr. No.	Particular	Yes/No	Complied Yes/No
1.	Whether annexed Tabular Index, Proforma Sheet and Synopsis ?		
2.	Synopsis as per Practice Note No. 43 and 51 ?		
3.	Flag Synopsis/Prayer/Impugned Order/Notice/Circular etc.		
4.	State Full Name, Age, Occupation and Complete Address of parties to the Cause Title. (Strike down Prefix Mr./Mrs./Ms./M/s. from Cause Title only)		
5.	Whether Description of Parties are properly given ?		
6.	Whether Endorsement is made regarding perusal of Original POA/Authority Letter/Resolution.		
7.	Whether Verification of Clause is as per Form No.3 of High Court (O.S.) Rules ?		
8.	Whether All Exhibits are Marked in Margin and on the Top of Exhibits.		
9.	Whether Petition is Interpreted to Petitioner/s (If the Petition is signed in Vernacular Language.)		
10.	Whether Averments are made in respect of Jurisdiction ?		
11.	Whether Averments are made regarding Alternate efficacious Remedy are made or Not ?		
12.	Whether Averments are made regarding any other Petition Filed/Not Filed ?		
13.	Whether Averments are made regarding List of Documents Relied upon ?		
14.	Whether Court Fees with Proper Valuation is paid ?		
15.	Whether all Parties and Adovcates have signed the Petition as well as on Vakalatnama ?		
16.	Whether Vakalatnama is as per Form No.5 of High Court (O.S.) Rules ?		
17.	Whether Memorandum of Address is Annexed and Signed?		

Sr. No.	Particular	Yes/No	Complied Yes/No
18.	Whether Notes of Appearance is filed as per Form No.4 of High Court (O.S.) Rules in case Petition is Filed by Party-in-Person.		
19.	Whether Permission is obtained from Committee to Appear in-person.		
20.	Whether Exhibits are legible and unmarked ? If not provide Legible/Unmarked/Types copies of Page Nos.		
21.	Whether English Translation of Vernacular Documents is Annexed ? If not provide Legible/Unmarked/Types copies of Page Nos.		
22.	Whether all Exhibits are certified as True Copy by the Advocate OR Party-in-Person as the case may be.		
23.	Whether Affidavit in Support is filed ?		
24.	Whether Advocate & Deponent has put initials against every handwritten corrections ?		
25.	File Advocate Certificates.(Single Bench 636(1)(a) and (Division Bench 636 (1)(b).		
26.	Correct 2 <sup>nd</sup> Set as per 1 <sup>st</sup> Set with True Copy.		
27.	Whether True Copy of Power of Attorney/Authority letter is Annexed ?		
28.	File Praecipe for Compliance as per Office Order dated 31/10/2018.		
29.			
30.			

Objections at Sr. Nos. \_\_\_\_\_ to be Complied.

Signature, Date and Name of Associate.

All Objections are Complied.

Advocate/Party-in-person.

Verified All Objections/Except Objection No/s. \_\_\_\_\_

Master (Adm.)  
Writ Petition  
Board/Lodging Department.

Master & Assistant Prothonotary (Adm.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORIGINAL SIDE  
(PRESENTATION FORM)

Suit / Petn. / Counter Claim Stamp No..... of 200

Case Identification No.....

Maharashtra Theatres Private Ltd & Anr. Plaintiff/Petitioners

The State of Maharashtra & Ors <sup>V/s</sup> Defendants/Respondents

Plaintiff / Petitioner Address : C/O Medway Resolution and Insolvency Services Pvt. Ltd. 708, Rakeja Centre, 1<sup>st</sup> Floor, Nariman Point Mumbai - 400021

Nationality : Indian Occupation : \_\_\_\_\_

Age of the Plaintiff/Petitioner : \_\_\_\_\_ Sex  M /  F /  N.A. Caste : \_\_\_\_\_

Email ID : \_\_\_\_\_ Contact No. : \_\_\_\_\_

Fax No. : \_\_\_\_\_ Telex No. : \_\_\_\_\_

Advocate Code / Name : Veenu Khatri 29618

Defendant / Respondent Address : The State of Maharashtra & Ors

Nationality : \_\_\_\_\_ Occupation : \_\_\_\_\_

Age of the Defendant/Respondent: \_\_\_\_\_ Sex :  M /  F /  N.A. Caste : \_\_\_\_\_

Email ID : \_\_\_\_\_ Contact No. : \_\_\_\_\_

Fax No. : \_\_\_\_\_ Telex No. : \_\_\_\_\_

Advocate Code / Name : \_\_\_\_\_

Act Code : \_\_\_\_\_ Under Section : \_\_\_\_\_ Computer Code No. : \_\_\_\_\_

Claim Rs. : \_\_\_\_\_ Presented with Court Fees Rs. : \_\_\_\_\_

Stamp Paper / (Court fees Lable) Denomination is to be mentioned :  
(Only denomination of Claim Amount should be mentioned)

Denomination of Stamp Paper : ..... x ..... = Rs. ....

..... x ..... = Rs. ....

..... x ..... = Rs. ....

..... x ..... = Rs. ....

..... x ..... = Rs. ....

Denomination of Court Fee Label : ..... x ..... = Rs. ....

..... x ..... = Rs. ....

..... x ..... = Rs. ....

Vakalatnama : ..... 5 x 3 = Rs. 15 .....

..... x ..... = Rs. ....

Total = Rs. \_\_\_\_\_

Whether copy of caveat filed by Defendant / Respondent / Opponent received by Plaintiff / Petitioner / Applicant ? Yes / No ✓

If YES Date of receipt of copy and number of caveat :-

Whether any petition on the above subject has been filed by the Petitioner / Appellant / Applicant ? YES / NO ✓

If YES, please state Case Number/s :

This            day of            , 20.



Signature of the Advocate

Signature & Name of Person presenting for Petitioner / Respondent

(For Category / Act Codes please see the list at filing counter/Board Department)

=====

REQUIRMENTS AT THE TIME OF FILING PLAINT / PETITIONS ETC.

=====

1. Folder (Dark Green)
  2. Card Paper (Front & Back - Green)
  3. Index
  4. Proforma
  5. Synopsis ( in Arbitration Petition / Application / etc. )
  6. Plaint / Petition
  7. Vakalatnama / Note of Appearance
  8. Memorandum of Advocate / Plaintiff's Address
  9. List of Documents
  10. Exhibits
  11. Affidavit
  12. Stamp Paper
  13. Presentation Form
  14. Plaint / Petition Docket (Two Copies)
- =====

1. Plaint / Petition has been declared / Sworn on Dt. ...18/9/2023.....
2. Synopsis are signed and filed along with the Plaint / Petition. ..... Y/N
3. Index is filed ..... Y/N
4. Proper Court Fees has been paid at the time of filing of Plaint / Petition ..... Y/N/Undertaking given
5. Vakalatnama / Note of Appearance annexed ..... Y/N
6. Whether Computer Code No. mentioned. .... Y/N
7. Impugned Order annexed to the Memo of Appeal ..... Y/N

CHECKED BY :

Section Officer/ Assistant  
BOARD DEPARTMENT

Signature of Data Entry Clerk



BRIHANMUMBAI MAHANAGARPALIKA

NO. CE/6633/BSII/AH

7 JUL 2006

FULL OCCUPANCY CERTIFICATE

To,  
M/s. Maharashtra Theatre Pvt. Ltd.,  
Bandra [East],  
Mumbai 400 051.

Ex. Engineer Bldg. Proposal (V.V.S.)  
H and K — Wards,  
Municipal Office, R. K. Park Marg,  
Bandra (West), Mumbai-400 050.

Sir,

The full development work of commercial building comprising of basement for store, Cinema Theatre, Bank and office on ground floor, podium for parking, 1<sup>st</sup> to 5<sup>th</sup>, 6<sup>th</sup> (Pt), 7<sup>th</sup> (Pt) and 8 (Pt) upper floors for offices, situated on plot bearing CTS No. 629/1252 of Village, Sant Gyaneshwar road, Bandra [East] is completed under the supervision of Architect Shri Naren Kuwadekar, Architect License No.CA/85/9399, may be occupied on the following conditions :

- 1) That the Cft. under section 270-A of B.M.C. Act shall be obtained from H.E. and a certified true copy of the same shall be submitted to this office within three months from the date of issue of occupations Cft.
- 2) This occupancy cft. is granted without prejudice to any action initiated under section 353-A/471 of B.M.C. Act.
- 3) That 4 Nos. of lift for which Lift Inspector NOC is not obtained will not be operated without obtaining Lift Inspector's Certificate.
- 4) That the Lift Inspector's Certificate for the remaining 4 Nos. of lift will be submitted within 3 months or BCC whichever is earlier.
- 5) That the NOC from Police Commissioner, PWD & CFO shall be submitted before starting the cinema theatre.
- 6) That the NOC from S.G. & BSES shall be submitted before B.C.C. or 3 months whichever is earlier.
- 7) That R.U.T. for the compliance of above conditions 4,5 & 6 shall be submitted. A set of certified completion plan is attached herewith.

CERTIFIED TRUE COPY

For NAREN KUWADEKAR & ASSOCIATES  
consulting architects & interior designers  
2001/10/20/9

7 JUL 2006

Yours faithfully,

— sd —

Executive Engineer Building Proposal  
(Western Suburbs) H & K/East Wards

- 1) Architect : Shri Naren Kuwadekar
  - 2) E.E.D.P.
  - 3) E.E.(Vig.)W.S.
  - 4) Dy.A.A.& C.(S)
  - 5) Sup. H/E Ward.
  - 6) A.E.W.W. H/E Ward
  - 7) Asstt. Commissioner, H/E Ward
- forwarded for information please.

Documents\Occupation\6633 Full G.C..doc

CERTIFIED TRUE COPY

E.E.B.P.(W.S.)H & K/E Wards.





महाराष्ट्र शासन

## मालमत्ता पत्रक



ULPIN: 62948367881

[महाराष्ट्र जमीन महसूल (गाव, नगर व शहर भूमापन) नियम, १९६९ यातील नियम ७ नमुना "ड"]

62948367881

गाव/पेठ : बांद्रा (पूर्व)	तालुका/न.भू.का. : नगर भूमापन अधिकारी, बांद्रा	जिल्हा : मुंबई उपनगर			
नगर भूमापन क्रमांक	शिट नंबर	प्लॉट नंबर	क्षेत्र चौ.मी.	धारणाधिकार	शासनाला दिलेल्या आकारणीचा किंवा भाड्याचा तपशील आणि त्याच्या फेरतपासणीची नियत वेळ
६२९/१२५२			४५१५.००	ब	-

सुविधाधिकार :	
हक्काचा मूळ धारक :	H
वर्ष : १९८८	महाराष्ट्र शासन )अ.जि.मु.उप.मु.यांचा आदेश क्र. C/LND-II दि.१३/१/६८ अन्वये ९९ वर्षांचे भाडेपट्याने दिलेले स्वतंत्र मि.प.तयार केली. सही/XXX१६-९-८८ जिल्हा निरीक्षक, भूमी अभिलेखतथा नगर भूमापन अधिकारी क्र.३मुंबई उपनगर जिल्हा, मुंबई
पट्टेदार :	L [ महाराष्ट्र थियेटर प्रा.लि. ]
इतर भार :	-
इतर शरे :	-

दिनांक	व्यवहार	खंड क्रमांक	नविन धारक(घा), पट्टेदार(प) किंवा भार (इ)	साक्षांकन
22/04/1997	मा.जिल्हाधिकारी से. मुंबई उपनगर जिल्हा यांचे कडील हूकमाप्रमाणे व मा. अधिक्षक भूमि अभिलेख, मुंबई उपनगर जिल्हा, मुंबई यांचेकडील पत्र. क्र. न.भू./ शासकीय मिळकती/ संगणीकरण/ ९७/३६३/३ दि. २०/१/९७ अन्वये बृहन्मुंबई महानगरपालिका विकास आराखड्याप्रमाणे आरक्षित क्षेत्राची नोंद केली.. संपूर्ण क्षेत्र सिनेमा थिएटरसाठी आरक्षित आहे .			सही- 22/04/1997 न.भू.अ. बांद्रा
24/03/2017	मा.जमाबंदी आयुक्त आणि संचालक भूमि अभिलेख (म.राज्य) पुणे यांचेकडील परिपत्रक क्र.ना.भू.१/मि.प/अक्षरी नोंद/२०१५ पुणे दि.१६/२/२०१५ व इकडील आदेश क्र.न.भू.बांद्रा (पूर्व)/ फे.क्र ५१७० दिनांक २४/०३/२०१७ अन्वये मिळकत पत्रिकेवर नमूद अंकी क्षेत्र अक्षरी चार हजार पाचशे पंधरा पूर्णक शून्य दशांश चौ.मी दाखल केले			फेरफार क्रं. ५१७० प्रमाणे सही- 24/03/2017 न.भू.अ.बांद्रा
25/07/2018	आदेशान्वये - मा. जिल्हाधिकारी, मुंबई उपनगर यांचेकडील आदेश क्र. जि./ तह(म)/कार्या- ३अ/२०१८, दिनांक ३/४/२०१८ जा.क्र. ४६०५ व इकडिल, दिनांक २५/७/२०१८ चे आदेशान्वये न.भू.क्र ६२९/१२५२ या मिळकत पत्रिकेवर व्यवहार सदरी "शासनाने कब्जेहक्काने / भाडेपट्ट्याने प्रदान केलेली जमीन असल्याने जिल्हाधिकारी यांचे परवानगी शिवाय हस्तांतरण, विक्री तारण, बक्षीस, पोटविभाजन, वाणिज्य वापर, अतिरिक्त घटई क्षेत्राचा वापर, हस्तांतरणीय विकास हक्काचा वापर, पुनर्विकास इ. साठी प्रतिबंध" अशी नोंद दाखल करणेत अली आहे .			फेरफार क्रं. ५६८८ प्रमाणे सही- 25/07/2018 न.भू.अ.बांद्रा.
31/01/2023	आदेशाने नोंद - जिल्हाधिकारी, मुंबई उपनगर जिल्हा यांचे कडील आदेश क्र. : क्र.सी/कार्या- ३डी/एल-२३५/७३६/२०२२ दि. : १३/०७/२०२२ अन्वये आदेशातील अ.क्र.१ ते ३ मधील रक्कमा विहित मुदतीत शासन जमा न केल्याने महाराष्ट्र थिएटर प्रा.लि. यांना शासन निर्णय दि. १८/६/१९६९ व मा. जिल्हाधिकारी, मुंबई उपनगर यांचेकडील आदेश दि. ११/९/१९६९ अन्वये भाडेपट्ट्याने प्रदान करणेत आलेली मौजे - वांद्रे येथील स.न.३४९अ, न.भू.क्र.६२९/१२५२, क्षेत्र ४५१५ चौ.मी. जमीन शासन जमा करणेत येत असून सदर आदेशातील अ.क्र.७ अन्वये न.भू.क्र. ६२९/१२५२ या मिळकतीचे मिळकत पत्रिकेवरील दाखल असलेले पट्टेदार महाराष्ट्र थिएटर प्रा.लि. हे नाव कमी करून मुळ धारक महाराष्ट्र शासन कायम केलेची नोंद केली.			फेरफार क्रं. २८ प्रमाणे सही- 31/01/2023 न.भू.अ. बांद्रा

<p>हे मिळकत पत्रिका (दिनांक 31/01/2023 04:01:01 PM रोजी) डिजिटल स्वाक्षरी केली असल्यामुळे त्यावर कोणत्याही सही शिक्काची आवश्यकता नाही.</p> <p>मिळकत पत्रिका डाउनलोड दिनांक 11/07/2023 04:07:20 PM</p> <p>वैधता पडताळणी साठी <a href="https://digitalsatbara.mahabhumi.gov.in/DSLR/Login/VerifyPropertyCard">https://digitalsatbara.mahabhumi.gov.in/DSLR/Login/VerifyPropertyCard</a> या संकेत स्थळावर 2205100002450733 हा क्रमांक वापरावा.</p>	<p>हे मालमत्ता पत्रक डिजिटली साईन केलेले आहे</p>
---	--