

LEGAL OPINION

Query has been sought for by **Prabhat Kumar Dhandhanian** in respect of title of plot no. 34(Part), 35/2(Part), 36(Part), 49(Part) and 50(Part) i.e. 5 gata total area 7253.86 sq.mt. village Habibupra, Pargana Dehat Amanat, District Varanasi.

The said plot area are adjacent to each and form compact Chunk of Land.

I have examined the all related papers and the entries of village records.

The following pedigree would be helpful for the determining the devolution of interest in the said property, which is infact part of a larger ancestral immovable property.



That to trace back to common ancestor the said settlement plot along with others are acquisition of Shri Babu Lal Jee in shape of agricultural holding. Such acquisition used to be from Zamindar in the relevant period.

Shri Satya Narain Dhandhanian passed away on 19.09.1960 while Shri Babu Lal Jee passed away on 19.07.1972.

The said family entered into oral family settlement on Shardiya Saptmi on 1977 and the memo of which was executed on 18.04.1994 whereby the family property was divided between branch of Atma Ram Dhandhanian and Satya Narain Dhandhanian. Under the said oral family arrangement, plots aforesaid alongwith others as detailed Schedule of the said Memo reproduced below, was placed in share and lot of Late Atma Ram Dhandhanian. The said fact oral family settlement was accepted and referred to in various sale deeds executed by members of both branches.

**Schedule - Phat of Atma Ram Dhandhanian, Prabhat Kumar Dhandhanian
and Anoop Kumar Dhandhanian**

1. Bhumidhari holding, village Habibpura, Pargana Dehat Amanat, Tahsil and District Varanasi :-

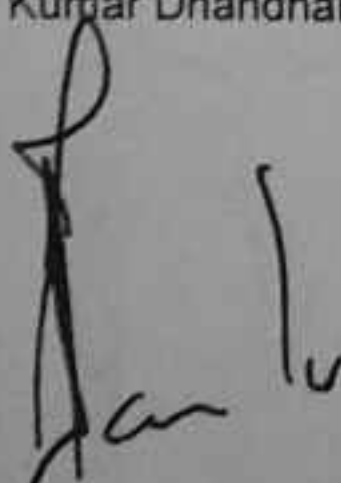
Settlement Plot Nos.	Area in Sq.ft.
33/2	37707
34	15776
35/2	48198
36	23898
37/1	28513
38	6292
49	11083
50	13882
Total	185349

Land which has been set apart as private passage

Settlement Plot Nos.	Area in sq.ft.
33/2	11072
34	3880
35/2	7414
36	2957
37/1	5277
49	2093
50	5474
Total	38167

Shri Atma Ram Dhandhanian passed away 13.10.2002 living behind his widow Smt. Uma Dhandhanian, two sons Prabhat Kumar Dhandhanian and Anoop Kumar Dhandhanian and a married daughter Smt. Shashi Prabha Vaid (married to Shri Vinod Vaid).

In course of time Shri Anoop Kumar Dhandhanian shifted to Lchalkaranji District Kolhapur, Maharashtra and established his business settled there while Prabhat Kumar Dhandhanian looking after the business at Varanasi.



It was just to avoid to future confusion the said real brothers have entered into oral family settlement on 24.06.2006 (2007 is typing error) at Mumbai with intervention and guidance of Shri Anand Jain. Smt. Uma Devi Dhandhanian opted to retain her share with her elder son Prabhat Kumar Dhandhanian. Memo of the said oral family arrangement was executed on 11.05.2007. However under the said arrangement the property i.e. plots aforesaid along with others as detailed Schedule of the said Memo reproduced below, were placed in share and lot Prabhat Kumar Dhandhanian and Smt. Uma Devi Dhandhanian, and thus the property aforesaid came down with sole title, in their exclusive possession and control.

Schedule of Joint Pool of Smt. Uma Devi & Prabhat Kumar Dhandhanian

Settlement Plot Nos.	Area in Sq.ft.
35(part)	30411
36(part)	2957
49(Part)	11083
50(Part)	13882

Total	58333

Schedule of Prabhat Kumar Dhandhanian

Settlement Plot Nos.	Area in Sq.ft.
34(part)	9149
35(part)	13436

Total	22585

The said memo of family arrangements dt. 18.04.1994 and 11.05.2007 are unregistered; however, they do not require registration.

The factum of the said oral family settlement and execution of memo thereof are admitted and referred by both parties in registered sale deeds.



Registered sale deed dated 23.05.2005 in respect of settlement plot No. 36(part) village Habibpura Varanasi executed by Umesh Kumar Dhandhanian & Brothers S/o Late Shri Satya Narayan Dhandhanian to Rishabh Chandra Jain registered as Document No.1053 Book No.1 Volume No. 410 Pages 193/220 on 27.05.2005 in office of sub-registrar Varanasi.

Registered sale deed dated 27.11.2009 in respect of Duplex No. C-32/13A-2 Annpurna Enclave Colony located over settlement Plot No. 36(part) Village Habibpura Varanasi executed by Anoop Kumar Dhandhanian to Smt. Kiran Jain & Others registered as Document No.2351 Book No.1 Volume No. 1315 Pages 287/360 on 27.11.2009 in office of sub-registrar -III Varanasi.

Thus each member of the family has utilized the oral family settlement and memo thereof aforesaid for their benefit and have executed sale deed admitting memo of family arrangement dt.18.04.1994 and further memo dt.11.05.2007 and there is no dearth of other similar documents. Therefore none of the parties concerned are in position to deny or question the said oral family settlement and memo thereof, nor crystallization of interest, consequent distribution of share and lot so made, as it is fortified by their own act & omission and admission. Therefore derivative interest from Prabhat Kumar Dhandhanian and Smt. Uma Dhandhanian is safe.

Shri Prabhat Kumar Dhandhanian utilized a portion of land so allotted for the purposes of promotion and development of duplex residential units and thereafter transferred such units to different person under the registered sale deed.

It is also relevant to note that Shri Anoop Kumar Dhandhanian has executed Power of Attorney dated 26.12.2007 registered as Document No.126 Book No.4 in the office of Joint Sub-Registrar Ichalkaranji Kolhapur, admitting the said facts of partition under the oral family arrangement. Therefore, in my opinion the family arrangement so arrived at is conclusive and binding.

Therefore in my opinion the land aforesaid are ancestral acquisition. Under the valid oral family arrangement, a portion of such ancestral acquisition were placed in share and lot of Prabhat Kumar Dhandhanian and Uma Devi Dhandhanian and therefore they are sole owners with marketable title therein.

The person aforesaid proposed to utilize said chunk of land for development of group housing units. However since the project under VDA Building bye laws required EWS/LIG units as well, Shri Rishabh Chandra Jain with area 136.054 sq.mt. plot No.36, Smt.Rajmani Devi an area 13.01 sq.mt. Plot No.36(part) and ARC Builders and Developers Pvt.Ltd an area 299.814 sq.mt. plot No.36(part) i.e. in totality offered 448.907 sq.mt. of S.M.Plot No.36, Village Habibpura, Pargana Dehat Amanat, Tahsil and District Varanasi land to be utilize of conjointly under the agreement dt. 21.12.2012 to the said effect thereafter the sub division and building plan thereof has been approved by the Varanasi Development Authority vide File No.43/Group Housing/Vinyas along with EWS/LIG order dt. 01.05.2012 passed by Nagar Abhiyanta,VDA.

However ARC Builders and Developers Pvt.Ltd. through its Director Shri Ajeet Kumar Jain and Smt.Rajmani Devi sold their land to Shri Rishabh Chandra Jain under sale deeds registered as document no. 3178, book no.1,vol.no.2138, page no.1/26 in the office of Sub-registrar, Varanasi, and sale deed dt.21.12.2012 registered as document no.3177, book no.1, vol.no. 2137 , page no.387/424 in the office of Sub-registrar,Varanasi respectively on 21.12.2012. Thus Shri Rishabh Chandra Jain became owner of entire 448.98 sq.mt. of SM.Plot No.36(part) aforesaid.

G.O. # 3338/Eight-1-11-80 miscellaneous/2010 dated 26.09.2011 since require the builder to construct and provide prorata EWS flats the land provided by Shri Rishabh Chandra Jain the same was proposed to be utilized for said requirement.

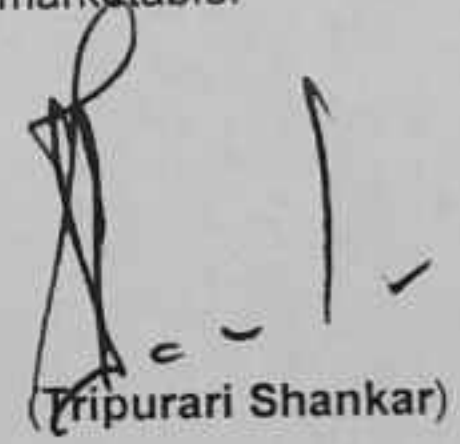
However the said G.O. was modified by G.O. No.3188/Eight-1-13-80 miscellaneous/2010 dated 05.12.2013 providing option to Builder / Developer to get exemption from said requirement of providing EWS flats by depositing shelter fees. The Builder / Developer has opted the said option and filed application therefore, the same is under process.

I have got the records checked at sub-Registrar Office for over 13 years and could not find any encumbrance over the property during the said period. Non encumbrance issued by sub-Registrar is annexed.

I have also checked Tahsil records from settlement eg.1288F till date, the entries are uninterrupted establishes, the said nature of acquisition thereof and coming down in name of heirs and legal representative Viz Shri Prabhat Kumar Dhandhanian and others.

The property is clean and clear in name of Shri Prabhat Kumar Dhandhanian and Smt.Uma Devi Dhandhanian and the title is free and marketable.

Date : 10.08.2017



(Tripurari Shankar)