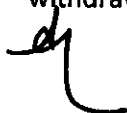


TO WHOMSOEVER IT MAY CONCERN

1. This has reference to my Report on Title dated 26th March, 2013 in respect of the land stated therein owned by Simtools Limited.
2. With regards to exempted land under sub-section (1) of section 20 of the Urban Land (Ceiling and Regulation) Act of 1976, I opined as follows :
3. The Urban Land (Ceiling and Regulation) Act, 1976 is an Act of Parliament, which is enacted with a view to take measures for exercising social control over the scarce resource of urban land, to ensure its equitable distribution among the various sections of Society and also to avoid speculative transactions relating to land in urban agglomerations. In the principal Act, the ceiling limits are fixed in urban agglomerations in the schedule and a mechanism is provided to determine the excess vacant land in urban agglomerations. Under Section 20 of the said Act, the Government is empowered to exempt vacant land subject to such conditions as may be specified in the order. Section 20(2) of the principal Act empowers the Government to withdraw the exemption in cases where conditions imposed in the orders granting exemption under Section 20(1)(a) and (b) are not complied with.
4. The aforesaid Act is repealed by Act 15 of 1999 i.e. the Urban Land (Ceiling and Regulation) Repeal Act, 1999. From a perusal of the objects and reasons of this Repealing Act, it is clear that the principal Act was repealed, as it has failed to achieve object that was expected of it.
5. The Urban Land (Ceiling and Regulation) Repeal Act, 1999 is adopted by the State of Maharashtra by notification dated 1st December, 2007.
6. From a perusal of the aforesaid provisions under Sections 3 and 4 of the Urban Land (Ceiling and Regulation) Repeal Act of 1999, it is clear that the orders granting exemption under sub-section (1) of Section 20 of the principal Act are saved. It is also clear from a perusal of the provision under Section 3(1)(c) of the Repealing Act that repeal of the principal Act shall not affect any payments made to the State Government as a condition for granting exemption under sub-section (1) of Section 20 of the principal Act. But, at the same time, the provision under sub-section (2) of Section 20 is not saved. Section 20(1) of the principal Act empowers the Government to exempt any land subject to certain conditions, but under sub-section (2) of Section 20 of the principal Act, the Government was empowered to withdraw such exemption in cases where conditions are violated. A



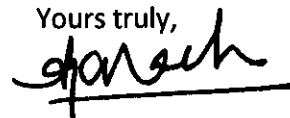
harmonious reading of the provisions under Sections 20(1) and 20(2) of the principal Act, coupled with Section 3 of the Repealing Act, makes it clear that the order granting exemption is saved only with a view to avoid repayment of any amounts collected by the State Government, while granting exemptions. When the principal Act itself is repealed on the ground that it has failed to achieve the objective expected of it, the condition imposed in the Order granting exemption shall, in my opinion, not continue to operate. In the absence of any saving clause, saving sub-section (2) of Section 20 of the principal Act. I reiterate that it will not be permissible for the Government to initiate any action for resuming surplus land under section 10 of the Principal Act on the ground that the conditions imposed under section 20 (1) thereof have been breached/not complied with, after coming into force of the Urban Land (Ceiling and Regulation) Repeal Act, 1999. In the absence of such power, and further, in view of the Repealing Act itself, the conditions imposed in the order granting exemption, have become unenforceable and are non-est. In this regard, I may also refer to the recent judgement of Hon'ble the Bombay High Court in the case of Manik M. Ragit V/s. State of Maharashtra [2013(2) Mh.LJ Page 224] in which it has been observed as under :-

"....Therefore looking at the matter this way, even if the scheme has not been implemented or the exemption has been withdrawn, this judgement holds that the respondent could resort to section 10 of the Un-repealed Act. That having not been done in the case before us we are of the view that, the controversy is covered by the judgment of this Court in the judgement of Vithabai's case."

7. Thus, in my view the land in question becomes free hold land and released in view of the repealed act.

Dated this th12 day of November, 2013

Yours truly,



Pradip Garach

Advocate High Court, Bombay