

GYANENDRA AGRAWAL
ADVOCATE SUPREME COURT
Enrl: D/2778/96

1064B, WARD 7, 1ST FLOOR, NIRANKARI
SATSANG BHAWAN, MEHRAULI
NEW DELHI 110030 Mobile:9811263729

Op5181

The Branch Manager
Indian Overseas Bank
Janpath Branch
New Delhi

04.06.2022

Sub: Supplementary legal opinion w.r.t Part of Farmland measuring 2 Bigha 10 biswa out of Khasra no. 265/1 min (2-10) situated at Village Sultanpur , Tehsil Hauz Khas (Mehrauli) , New Delhi in the name of Sh. Rajan Handa

This is in continuation of my search & legal opinion dated 15.03.2022 given for the above mentioned property . In legal opinion dated 15.03.2022 the undersigned opined that the above mentioned property will be registered mortgage by the bank.

Now the Bank has raised a query whether an equitable mortgage can be created w.r.t above mentioned property.

On dated 31.05.2022 and on 01.06.2022 the undersigned visited the tehsil office where the above mentioned property is situated. Upon enquiry it was found that the entire estate of village Sultanpur , Tehsil Hauz Khas (Mehrauli) , New Delhi was urbanized vide Gezette notification dated 20.11.2019 issued by Government of NCT Delhi , Urban Development Department . The entire files have been transferred to DDA by the revenue office of Delhi government. At present no mutation has been done by the revenue authorities w.r.t land parcels comes under the revenue estate of Village Sultanpur , Tehsil Hauz Khas (Mehrauli) , New Delhi. It is further seen that the revenue estate Village Sultanpur , Tehsil Hauz Khas (Mehrauli) , New Delhi is no longer rural but it has been converted to




Urban. Upon further enquiry it is also transpired that the said area has been declared as low density residential area in year 2013 under Delhi Master Plan 2021. The above said revenue estate of Village Sultanpur , Tehsil Hauz Khas (Mehrauli) , New Delhi has been converted to Urban area as such the municipal laws and DDA laws are applicable over the same .

The name of the Bank will not be recorded as a mortgagee in the revenue records as the mutation or any entry in revenue records are stopped by revenue authorities. The purpose of registered mortgage is only to mutate the name of the Bank as mortgagee in the revenue records but same is not possible due to mutation has been stopped by the revenue authorities. In the present case Sh. Rajan Handa is the owner and title holder of the above mentioned property and Sh. Rajan Handa is having a valid title w.r.t above mentioned property and the same can be deposited with the intention to create mortgage as a security in favour of the bank by sh. Rajan Handa in other words an equitable mortgage can be created w.r.t above said property .

In view of the above the bank can creates an equitable mortgage w.r.t above mentioned property. The equitable mortgage of the said property will also not contravene the provisions of Delhi Land Reforms Act 1954 . It is further stated that the interest of the bank is fully protected if the bank crates an equitable mortgage over the above mentioned property. It is further stated that the equitable mortgage does not affect the enforceability under the SARFAESI Act 2002 .

The Bank shall obtain all the documents as mentioned in para 22 except sub clause I (Original registered mortgage) of my legal opinion dated 15.03.2022. Except registered mortgage to equitable mortgage no change has been made to my previous legal opinion dated 15.03.2022. The detail of documents to be



obtained from mortgagor i.e Sh. Rajan Handa in order to create equitable mortgage in favour of the Bank are mentioned below:

- A. Certified true Copy of Fird showing Sh. Hari Ram Saini as the recorded owner of measuring 2 Bigha 10 biswa out of Khasra no. 265/1 min (2-10) situated at Village Sultanpur , Tehsil Hauz Khas (Mehrauli) , New Delhi
- B. Original sale deed executed by Sh. Hari Ram Saini through his GPA Sh. Hari ram in favour of Tilak Raj Handa and Smt. Usha Handa w.r.t measuring 2 Bigha 10 biswa out of Khasra no. 265/1 min (2-10) situated at Village Sultanpur , Tehsil Hauz Khas (Mehrauli) , New Delhi duly registered as no. 4681 in addl. Book I Volume 4189 at pages 113-116 dated 07.11.1979.
- C. Certified true Copy of fird showing that the name of Tilak Raj Handa and Smt. Usha Handa has been mutated in the revenue records w.r.t measuring 2 Bigha 10 biswa out of Khasra no. 265/1 min (2-10) situated at Village Sultanpur , Tehsil Hauz Khas (Mehrauli) , New Delhi
- D. Original sale deed dated 09.06.1997 executed by Tilak Raj Handa and Smt. Usha Handa in favour of Sh. Rajan handa w.r.t measuring 2 Bigha 10 biswa out of Khasra no. 265/1 min (2-10) situated at Village Sultanpur , Tehsil Hauz Khas (Mehrauli) , New Delhi duly registered as no. 6254 in addl. Book I Volume 1162 at pages 09-14 dated 09.06.1997.
- E. Certified true Copy of fird showing that the name of Sh. Rajan Handa has been mutated in the revenue records w.r.t measuring 2 Bigha 10 biswa out of Khasra no. 265/1 min (2-10) situated at Village Sultanpur , Tehsil Hauz Khas (Mehrauli) , New Delhi
- F. Copy of building sanction letter dated 04.12.1980 w.r.t farmhouse over khasra no. 266 , 267 , 273, 264 , 265/2 , 265/1 situated at Village Sultanpur , Tehsil Hauz Khas (Mehrauli) , New Delhi passed by MCD New Delhi



- G. Copy of completion certificate w.r.t farmhouse over khasra no. 266 , 267 , 273, 264 , 265/2 , 265/1 situated at Village Sultanpur , Tehsil Hauz Khas (Mehrauli) , New Delhi passed by MCD New Delhi.
- H. Original No dues and NOC to be obtained from M/s JM Financial Products Ltd.
- I. Copy of latest paid house tax and electricity bill.
- J. Copy of Sizra of village Sultanpur, New Delhi .

It is opined accordingly.



(Gyanendra Agrawal)