

N.K. Sarin

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Dated : 09-10-2023

To,


The Branch Manager
Bank of Maharashtra
GMS Road Branch
Dehradun.

Legal opinion


- 1) **Sub:** - Title report of the properties owned by Smt. Kusam Seth, W/o Shri Anil Kumar Seth, R/o- G-179, Araghar, Dehradun, Uttarakhand.
- 2) **Name of the Branch:** - GMS Road Branch, Dehradun.
- 3) **Name of the borrower / Prospective Title Holder:** - Shri Saurabh Gupta, S/o Shri Madan Mohan Gupta, R/o 40 Bloomfield Ecstasy, Ramchandrapuram Mandal, Tellapur, Medak, Telangana.

4) **Description of Documents scrutinized**

Sr. No.	Date of Execution of Document	Details of registration of Document / conveyance	Place sub-regd office	Property falls under sub-registrar	Remarks
1.	18-04-1945	Building Plan sanctioned by City Board Mussoorie	N.A.	N.A.	Not registered
2.	06-07-1960	Sale Deed executed by Shri Banarsi Das Bhargav S/o Late Pt. Narayan Das in favor of	Joint Sub-Registrar, Mussoorie,	Dehradun	Registered in Book 1 Vol. 67 pages 60 – 64


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		Shri Shyam Lal S/o Shri Geeta Ram and Shri Guman Singh S/o Shri Ram Singh.	Distt. Dehradun.		Sl. No. 14 on 12-08-1960.
2.	31-05-1962	Partition Deed executed between Shri Shyam Lal S/o Shri Geeta Ram and Shri Guman Singh S/o Shri Ram Singh.	Joint Sub-Registrar, Mussoorie, Distt. Dehradun	Dehradun	Registered in Book 1 Vol. 67 pages 387 - 391 Sl. No. 9 on 05-06-1962.
3.	11-04-1972	Sale Deed executed by Shri Chintamani Bharti, Pitambar Bharti, Govind Bharti all three sons of Late Shyam Lal, Smt. Savitri Devi wife of Late Shri Shyam Lal and Smt. Kamla wife of Shri Kuldeep Rawat and daughter of Late Shri Shyam Lal in favour of Smt. Kusam Seth wife of Shri Anil Kumar Seth.	Joint Sub-Registrar, Mussoorie, Distt. Dehradun	Dehradun	Registered in Book 1 Vol. 79 pages 361 - 365 Sl. No. 42 on 18-04-1972.
4.	12-01-1972	Authenticated Power of Attorney executed by Shri Govind Bharti, Smt. Kamla and Smt. Savitri Devi in favour of Shri Ptambar Bharti.	Sub-Registrar-II, Haveli	Haveli, Pune, Maharashtra	Authenticated
5.	1977-1982	Certified Copy of Assessment List issued by City Board, Mussoorie showing the name of Smt. Kusam Seth as owner.	N.A.	N.A.	N.A.
6.	2014-2019	Certified Copy of Assessment List issued by City Board, Mussoorie showing the name of Smt. Kusam Seth as owner.	N.A.	N/A	N/A


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	29-03-2023	Bill issued by City Board, Mussoorie	N.A.	Regarding payment of house tax 2023-2024.	Showing the name of Smt. Kusam Seth
8.	13-09-2024	Sale agreement between Smt. Kusam Seth and Shri Saurabh Gupta.	N.A.	N.A.	Regarding sale of the said property.

5) .. Description of Property/properties/Nature of title

Sr. No.	Name of the owner/ Mortgagor	Extent of area (in acres/hect)	Survey no/ Gut No./CST No. / House no.	Is property leasehold/ freehold/ Govt. grant etc.	Nature of property	Location	Boundaries
01.	Present owner Shri Kusam Seth Borrowers/Mortgagors	1.50 Acres	Property known as Rukmani Niwas Estate, previously known as Hussain View Estate	Free hold	Residential	Camel's Back Road, Mussoorie, Distt. Dehradun.	East: Fern Hill Estate West: Krishan Vilas Estate North: North View Lodge Estate South: Camek Back Road
					Is photo of owners affixed. To be taken after verification		


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6) Trace of Title/ History of Passing of title. Details of antecedent title deeds

(Tracing the party's title for 30 years previous Regd. Title deed and intervening documents if any (e.g. transacting on power of attorney) to present document must be verified.)

1. The property previously known as Hussain View Estate, now known as Rukmani Estate located at Camel's Back Road, Mussoorie, Distt. Dehradun comprising of land having a total area of 2.73 Acres with main residential building and out-houses constructed pursuant to a sanctioned building plan dated 18-04-1945, and previously belonged to one Shri Banarsi Das Bhargav, Late Pt. Narayan Das Bhargav, who sold the same to Shri Shyam Lal S/o Shri Geeta Ram, and Shri Guman Singh S/o Shri Ram Singh vide a Sale Deed dated 06-07-1960 duly registered in the Office of the Joint Sub-Registrar Mussoorie, Distt. Dehradun in Book 1 Vol. 67 pages 60 – 64 Sl. No. 14 on 12-08-1960.

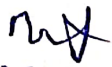
As per recitals contained in the said sale deed dated 06-07-1960 Shri Banarsi Das Bhargav had purchased the said property from its previous owner Shri Hussain Khan S/o Shri Rozi vide a sale deed registered in the office of the Sub-Registrar Dehradun in Book 1 Vol. 348 pages 256-261, Sl. No. 740 on 22-03-1948.

2. Thus, Shri Geeta Ram and Shri Guman Singh became the joint owners of the said property having a total land area of 2.73 acres.
3. Shri Geeta Ram and Shri Guman Singh thereafter effected a mutual partition by metes and bounds of their said property vide a partition deed dated 31-05-1962 duly registered in the office of the Joint SR Mussoorie, Distt. Dehradun in Book 1 Vol 67 pages 387-391 Sl.No.9 on 05-06-1962. As per the said partition, a


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portion of the said property having a total land area of 1.5 acres (more or less) with outhouses came to the exclusive share of Shri Shyam Lal and the remaining property having a total land area of 1.23 Acres came to the exclusive share of Shri Guman Singh.

4. Shri Shyam Lal is said to have expired on 24-11-1963 leaving behind his three sons namely, Chintamani Bharti, Pitambar Bharti and Govind Bharti, wife Smt. Savitri Devi and daughter Smt. Kamla w/o Shri Kuldeep Rawat upon whom the said property of Shri Shyam Lal devolved and who became the owners of the same upon his death.
5. The said 5 heirs of Late Shri Shyam Lal mentioned in para 4 above thereafter sold the said property to Smt. Kusam Seth vide a Sale Deed dated 11-04-1972 duly registered in Joint Sub-Registrar Mussoorie, Distt. Dehradun in Book 1 Vol 79 pages 361-365 Sl.No.42 on 18-04-1972.
6. As per recitals in the said sale deed dated 11-04-1972, the same was executed on behalf of Shri Govind Bharti, Smt. Kamla and Smt. Savitri Devi through their Attorney Shri Pitambar Bharti vide a deed of Power of attorney dated 12-01-1972 duly Authenticated by the Sub-Registrar-II, Haveli, Pune, Maharashtra. However, neither the original of the said deed of the General Power Attorney nor any copy thereof has been furnished by the parties. A period of more than 50 years has passed since the said sale deed was executed in favour of Smt. Kusam Seth and there appears to be no challenge to her title up to this date. **In case the Bank, in its discretion sanctions the loan an undertaking/indemnity should be obtained from the parties to the effect that they shall, within a specified time period provide the original deed of General Power Attorney dated 12-01-1972 or a certified copy thereof, and shall keep the Bank fully indemnified against any loss or damage which the Bank may suffer due to non-availability of the same.**


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7. The name of Shri Kusam Seth came to be duly recorded as owner in the Municipal records and continues to be so recorded upto this date.
8. Thus, Shri Kusam Seth is sole and absolute owner of the property as described in the Schedule above having full rights sell/transfer the same. She has now entered into an agreement for the sale of said property to Shri Saurabh Gupta, S/o Shri Madan Mohan Gupta who propose to purchase the same, after availing loan from Bank of Maharashtra against equitable mortgage of the said property with existing and future constructions as security therefore.

Detailed information about property to be mortgaged:

Details	Remark of counsel
1. Whether the documents of title given raise any doubts or suspicion	No
2. Have the title deeds has been compared with those at registrars' office & particulars tally.	Certified copies of the Title Deeds have been obtained but not as yet compared with the original.
3. Whether any of the property intended to be given by way of mortgage is subject to any minor's or any other claims? If yes, state whether requisite permission from the concerned court has been obtained and produced?	No
4. Whether the property proposed to be mortgaged is subject to the provisions contained under any special	No

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enactment /local laws. State implications of such enactment on the charge proposed to be created?	
5. Whether property to be mortgaged is coming under any restrictions on transfer & whether required permission/ consent as per terms of grant/allotment etc. obtained	No
6. Whether provisions of urban ceiling Act are applicable? If applicable whether permission obtained.	No. The Urban Land Ceiling Act was repealed way back in 1999.
7. Whether the user land has been converted under land revenue law? Whether N.A. Permission /change of user permission is obtained?	The Property is not agricultural Land. It is an urban Property within the Municipal Limits.
8. Whether required documents are available for creating valid equitable mortgage?	Yes. However, sale deed in favor of borrower has yet to be executed. The originals in the chain of title have to be inspected and verified.
9. What is the tenure of land? (In case of Lease Property) and whether necessary consent permission of lessor obtained.	N.A.
10. Whether the land is adiwasi (Tribal) Land?	No
11. Whether the land /property is joint family property? If yes are other joint owners ready to mortgage their share or give consent for mortgage by borrower.	No


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12. Whether any prohibitory order from Income Tax/ Wealth Tax or other authorities?	No
13. Is land/ property subject to any reservations/ acquisitions/ requisitions?	No
14. Whether plans for constructions are sanctioned?	Yes
15. Whether Commencement certificate issued?	N.A.
16. Whether Completion certificate obtained?	N.A.
17. Whether there are any restrictions from Corporation such as "education Zone", "Green Zone" Etc.?	No
18. Is the land taken on lease from State Industrial Development Corporation? If yes whether tripartite agreement executed?	No
19. Whether there are any prior encumbrances. If yes details thereof?	No
20. Evidence of possession -- Findings on documents and revenue records, details of property tax, land revenue, society maintenance charges or any other statutory dues paid upto date or payable.)	Sale deed and Municipal Assessment are available. Taxes have been paid upto date. Property is within the municipal limits of Mussoorie.


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21. In case of companies /societies /association /trust Whether	N.A.
a) Memorandum/byelaws of the company /society/association authorize to offer its property (ies) as security.	N.A.
b) Requisite resolutions have been duly passed by the Company/Society/Association permitting mortgage of the properties in favour of the Bank.	N.A.
c) Such resolution sets out the names of the persons who are authorized to create charge over the properties.	N.A.
d) Resolution U/s. 293 (i) (a) and 293 (i) (d) of Companies Act passed.	N.A.
e) Details of the properties together with the documents are mentioned under such resolutions.	N.A.
f) In case of Public Limited Companies, certificate of commencement of business has been obtained and affixation of common seal is necessary in terms of articles of association.	N.A.
g) In case of public charitable trust whether permission of charity commissioner for borrowing & mortgaging trust property is obtained and conditions stipulated if any.	N.A.


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22. In case of devolution of property by a will/succession,	The chain of title has been given above. The present title holder is the owner by virtue of a sale deed.
A) Whether probate of will/succession certificate/Letters of Administration obtained? Details thereof	N.A.
B) If probate/ succession certificate/ Letters of Administration not obtained, then how the mortgagor proposes to prove the title?	N.A.
C) The safeguards suggested to ensure title to the property offered as security.	Original title deeds have to be checked including the deed of power of Attorney dated 12-01-1972.
26) Whether title deeds perused are in conformity with the search taken	Yes
Whether the chain of title is complete without any missing links	Yes
Whether any other documents to be obtained/compliances to be made so as to create valid mortgage.	No

Certificate of title and No encumbrance

I have examined the original title deed relating to the property/ies situated at Camel's Back Road, Mussoorie, Distt. Dehradun and offered as security by way of simple mortgage/Equitable Mortgage. Original of sale deed dated I have also made online search with the Sub-Registrar of Assurances & Record of Rights for last 30 years. I certify that Shri/. Smt/. M/s Kusam Seth has an absolute, clear and marketable title over the property/ies shown above which she is capable of transferring by way sale to Shri Saurabh Gupta. I further certify that the documents of title refereed to under the opinion are perfect evidence of right, title and interest of the


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borrower / mortgagor and that if the said simple mortgage/equitable mortgage by deposit of title deeds created in the manner required by law, it will satisfy the requirements of creation of simple mortgage/equitable mortgage.

DOCUMENTS TO BE TAKEN FOR CREATION OF EQUATABLE MORTGAGE.

- 1- Original and certified copy of sale deed dated 11-04-1972, document No. 42.
- 2- Certified copy of deed of GPA dated 12-01-1972, registered with Sub-Registrar, Haveli-II, Pune.
- 3- Original and certified copy of partition deed dated 31-05-1962, document No. 09.
- 4- Original and certified copy of sale deed dated 06-07-1960, document No. 14.
- 5- Original sale agreement dated 13-09-2024.
- 6- Original sale deed to be executed by Smt. Kusam Seth in favour of Shri Saurabh Gupta.

Date:- 09-10-2024

Place: - Dehradun


Signature & Seal of Advocate

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E-mail – nksarin@gmail.com

Mob.: 9897024347

Dated : 09-10-2023

APPENDIX-7

CERTIFICATE OF TITLE AND NO ENCUMBRANCE

Inspection/Verification of records of landed property at Registrar/Sub
Registrar's Office at Dehradun.

To

The Branch Manager,
Bank of Maharashtra,
GMS Road Branch,
Dehradun, Uttarakhand.

This is to confirm that I have examined the certified copies of the title deeds relating to the residential property situated at **Camel's Back Road, Mussoorie, Distt. Dehradun**, and offered as security by way of simple mortgage/Equitable Mortgage. I have also taken search with the Sub-Registrar of Assurances & Record of Rights for last 30 years. I certify that Smt. Kusam Seth, W/o Shri Anil Kumar Seth, R/o- G-179, Aaraghar, Dehradun, Uttarakhand. She has the absolute, clear, and marketable title over the property shown above.

I further certify that the documents of title referred to under the opinion are perfect evidence of right, title, and interest of and Smt. Kusam Seth who has agreed for the sale thereof to Shri Saurabh Gupta, and that if the said simple mortgage/equitable mortgage by deposit of title deeds created in the manner required by law, it will satisfy the requirements of creation of simple mortgage/equitable mortgage.



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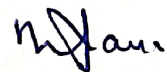
DETAILS OF THE PROPERTY IN QUESTION TO BE MORTGAGED ARE AS UNDER:-

Sr. No.	Extent of area (in acres/h ec)	Survey no/ Gut No./CST No. / House no.	Location	Boundaries
01.	1.50 Acres	Residential property known as Rukmani Niwas Estate, previously known as Hussain View Estate	Camel's Back Road, Mussoorie, Distt. Dehradun.	East: Fern Hill Estate West: Krishan Vilas Estate North: North View Lodge Estate South: Camek Back Road

Hereinafter referred to as "the said property".
The following points may be noted

- 1- That I have obtained the certified copies of the title deeds which have yet to be compared with the originals
- 2- Certified copy of the deed of GPA dated 12-01-1972 has not been furnished to me. In this regard, please refer to the observations made in para 6 of on page 5 above.
- 3- There is no prior charge over the said property and Smt. Kusam Seth is the sole and absolute owner of the same as per the records scrutinized by me.
- 4- That no encumbrance was found during the online inspection of the record of the concerned Sub-Registrar and the Bank safely mortgage the property in question after the sale deed in favour of the borrower Shri Saurabh Gupta is executed.

DATE : 09-10-2024
PLACE : Dehradun



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