

30th November 2020

To,
The Sr. Manager (Land & Building),
Asset Management Unit,
Mahanagar Telephone Nigam Ltd.,
Mumbai.

Sub : Opinion about marketable title of land bearing City Survey No. 1209, Village Malad West, Tal. Borivali, District Mumbai Suburban admeasuring 5525 Sq. mtrs.

Ref : Your E-mail dated 26th Nov. 2020 and your letter dated 27th Nov. 2020.

Sir,

My opinion is sought in respect of marketability of title of the MTNL in respect of the land admeasuring 5525 Sq. mtrs. bearing City Survey No. 1209 (Survey No. 413 (Pt)) of Village Malad, Mumbai Suburban District.

Corporate Office of MTNL Mumbai has also raised following queries :-

Q1. Whether MTNL has a clear and marketable title basis the (a) allotment letter (b) possession of land parcels and (c) proof of payment of consideration and (d) proof of payment of property taxes and related charges; or not?

Q2. If the title of MTNL is not clear and marketable on account of the aforementioned documents (set forth in Query No.1) then what else does the MTNL require to establish a clear and marketable title?

Q3. Presuming that the clear and marketable title is established in the land parcels of MTNL, what permissions may be required for the monetization of the said land parcels?

Q4. What procedures and/or compliances does MTNL have to seek prior to proceeding with any intended monetization and/or transfer of land parcels from the various land allotting authorities/agencies?

Q5. Given that the land parcels allotted to MTNL may be for specific purposes such as establishing a 'telephone exchange' and/or for 'staff quarters', what is the procedure applicable for 'change of land use' if the Querist is envisaging a potential monetization?

Q6. What processes for monetization can the MTNL adopt in respect of the land parcels given that the objective is to pare-down the debts of MTNL through potential sale/transfer/ sub-leasing of the land parcels owned by MTNL at present?

Q7. From a quantitative assessment perspective, MTNL wants a general estimation of the indicative percentage 'costs and expenses' that may be involved in regularizing and/or monetizing any land parcels currently owned by MTNL?

At the behest of then Post & Telegram Department of Government of India, land acquisition proceedings were commenced by Special Land Acquisition Officer (3), Bombay & Bombay Suburban District for acquisition of land admeasuring for 5226 Sq. mtrs. of City Survey No. 1209 (Pt) of Village Malad, Mumbai Suburban District. Notification under Section 4 of the Land Acquisition Act, 1894 was published on 7th July 1977. Notification under Section 6 of the Land Acquisition Act, 1894 was published on 2nd August 1979. Thereafter another Notification under Section 4 under the Land Acquisition Act, 1894 was published on 8th February 1979 for additional land admeasuring 299 Sq. mtrs. out of Survey No. 413, CTS No. 1209 (Pt) of Village Malad, Mumbai Suburban District. Section 6 Notification in respect of the additional land was published on 4th February 1982. This is how land acquisition proceedings were conducted in respect total land admeasuring 5525 Sq. mtrs. out of Survey No. 413, CTS No. 1209 (Pt) of Village Malad, Mumbai Suburban District. The award for acquisition of the said land admeasuring 5525 Sq. mtrs. was published by the Special Land Acquisition Officer (3), Bombay & Bombay Suburban District on 23rd September 1986. As per the said award, land admeasuring 5525 Sq. mtrs. was acquired and the total amount of compensation was determined as Rs. 1,60,109/-.

Upon deposit of the said award amount of compensation, possession of land admeasuring 5525 Sq. mtrs. at Survey No. 413, CTS No. 1209 (Pt) of Village Malad, Mumbai Suburban District was handed over Special Land Acquisition Officer (3) to MTNL on 18.09.1987 and possession receipt

was executed. MTNL also issued Handing Over Memo dated 18.09.1987 certifying that possession of land admeasuring 5525 Sq. mtrs. was taken over from the Special Land Acquisition Officer (3) on 18.09.1987. Both the Possession receipt as well as Handing Over Memo had written endorsement to the effect that handing over and taking over possession of the land was along with 26 hutments and 1 temporary brick structure.

The name of MTNL, Mumbai came to be mutated to the records of rights of the said land on 23.08.1988 by the City Survey Officer No. 5, Mumbai Suburban District. The City Survey Officer has also issued survey map of City Survey No. 1207 certifying that there is no construction on the entire City Survey No. 1207.

I am therefore of the opinion that the title of MTNL in respect of land admeasuring 5525 Sq. mtrs. situated at Survey No. 413 (Pt), City Survey No. 1209 (Pt), Village Malad, Taluka Borivali, District Mumbai Suburban is clear and marketable and the MTNL, Mumbai is entitled to sale, transfer or mortgage the said land for marketable consideration.

Now, I proceed to deal with the queries raised by MTNL Corporate Office:-

- Q. 1 As stated hereinabove, MTNL has acquired marketable title in respect of land. MTNL also has possession of the said land. It is only upon deposit of the award amount of compensation that possession of the land was handed over to the MTNL in the year 1987. So far as the query regarding the payment of Property Tax and other related charges are concerned, I am unable to answer the same.
- Q. 2 Since the title of MTNL is clear and marketable, this query need not to be answered.
- Q. 3 In my opinion, no permission from any authority is necessary for monetization of the land. The land was acquired by the State Government for the Union of India and therefore the acquisition is not governed by Section 44-A of the Land Acquisition Act, 1894.
- Q. 4 No procedure or compliance would be required for intended monetization and / or transfer from any Land Allotting Authority / Agency as the acquisition is not for any company within the meaning of Section 44A of the Land Acquisition Act 1894.

Q. 5 Even though acquisition of land for the purpose of erection of staff quarters, since MTNL is Owner and Occupier of the land, MTNL is in a position to sale / transfer the land and it is not necessary to change the land use. It is also a settled position of law that the purpose / use for acquisition is only till acquisition proceedings are in progress and that upon completion of acquisition proceedings, the use/purpose can be changed.

Also MTNL's intended land use i.e. 'Construction of Staff Quarters' has not been recorded in the Revenue records or in the MCGM. Therefore, there is no question of Change of Land Use. However in the Development Plan for City of Mumbai prepared by Municipal Corporation of Greater Mumbai, use of every land is determined and MTNL will be in a position to sale / transfer the land only for the purpose of its use as specified in the Development Plan.

Q. 6 I am not in a position to answer this query, as this is purely an administrative in nature.

Q. 7 I am not in a position to answer this query as the same is beyond the scope of legal opinion.

Opined accordingly,

Thanking you,

Yours truly



(SANDEEP V. MARNE)

Advocate