

Annexure E

Present status of litigations.

1. S.C. Suit No. 104240 of 2010:

- i. The Suit is filed (originally in the Hon'ble Bombay High Court and thereafter, due to change in pecuniary jurisdiction, transferred to the Hon'ble Bombay City Civil Court) by Modern India limited ("**Modern**"), inter alia, for a declaration that the Deed of Covenant dated 28th January 2003 and the right of way conferred on Modern on a portion of demarcated land transferred by Modern to Belvedere Court Condominium ("**Belvedere**") is valid and binding and for a perpetual injunction restraining Belvedere and its members (Defendants) from obstructing/interfering with Modern's exercise of its right of way.

ii. Notice of Motion No.2205 of 2010 in S.C. Suit No. 104240 of 2010:

The Notice of Motion by Modern, inter alia, for interim injunctive reliefs in terms of the above.

Status: No ad-interim reliefs were granted vide Order dated 16th August 2010 passed by the Hon'ble Bombay High Court. The Notice of Motion is pending before the Hon'ble Bombay City Civil Court at Mumbai.

iii. Notice of Motion No. 3467 of 2013 (BCCC) in S.C. Suit No. 104240 of 2010:

The Notice of Motion by Modern, inter-alia, to injunct Belvedere and its members from taking any steps to remove Modern's security personnel and/or from obstructing/impending/interfering with Modern's right of way.

Status: At the time of the ad-interim hearing an informal understanding was arrived at between the Advocates appearing for the respective parties that none of the apprehended steps will be taken by Belvedere and its members till the hearing and final disposal of the Notice of Motion. The Notice of Motion is pending before the Hon'ble Bombay City Civil Court at Mumbai.

iv. **Chamber Summons No. 1466 of 2013 (BCCC) in S.C. Suit No. 104240 of 2010**

The Chamber Summons by Modern, inter alia, seeking leave under Order I Rule 8 of Code of Civil Procedure 1908 to sue the Board of Managers of Belvedere in their representative capacities on behalf of and for the benefit of Belvedere and all the other apartment owners (except Modern) in Belvedere.

Status: On 23rd June 2023, Defendants filed *pursis* in the City Civil Court, Mumbai providing no objection if the Chamber Summons No. 1466/2013 is allowed by the City Civil Court. In view thereof, The City Civil Court was pleased to pass Order dated 23rd June 2023 *inter alia* allowing Chamber Summons No. 1466 of 2013 in terms of prayer clause (a) and (b). The Plaintiff was further directed to publish notice in this regard under provisions of Order 1 Rule 8 of Code of Civil Procedure, 1908. The said Chamber Summons was accordingly disposed of. Matter was thereafter adjourned for Compliance to 27.07.2023.

2. **Suit No. 104754 of 2011:**

i. The Suit is filed by some of the members of Belvedere, inter alia, for a declaration that Modern has no right title or interest in the portion of demarcated land (the said right of way) except in the capacity of apartment owner and for an injunction against Modern, inter alia, from changing the provisions of the sanctioned layout and or changing the user or putting up any construction above fourth floor from ground level on Plot D belonging to Modern without the consent in writing of the members. Due to change in pecuniary jurisdiction, this Suit as well was transferred to the Bombay City Civil Court at Mumbai.

ii. **Notice of Motion No. 3569 of 2011 in S.C. Suit No. 104754 of 2011:**

The Notice of Motion for interim injunctive reliefs in terms of the above.

Status: No ad-interim reliefs were granted vide Order dated 16th December 2011 passed by the Hon'ble Bombay High Court. Additional

Affidavit was filed by Plaintiff on 28th January 2019 for grant of urgent ad-interim reliefs as prayed in abovementioned notice of motion. Hearing is pending.

Vide an Order dated 15th July 2013, the Hon'ble City Civil Court framed preliminary issues in the Suit with regard to maintainability of the Suit in the Hon'ble City Civil Court on account of jurisdiction and limitation.

The hearing of the above preliminary issues as well as the Notice of Motion is pending before the Hon'ble Bombay City Civil Court.

iii. **Notice of Motion No. 685 of 2020 in S.C. Suit No. 104754 of 2011**

The Notice of Motion was filed by Defendant No.1 for a direction, *inter alia*, that this Hon'ble Court conduct an inquiry under Section 340 of the Code of Criminal Procedure, 1973 and to issue appropriate directions and pass appropriate orders against Plaintiff No.1 for wilfully, knowingly and intentionally making false statements on oath and thereby committing perjury, an offence punishable under Section 193 read with Section 191 of the Indian Penal Code, 1860.

Status: Hearing of the said Notice of Motion is pending.
