

Shyam Padman Associates

ADVOCATES & LEGAL CONSULTANTS

ASHWATHI', WEST HILL, CALICUT – 673 005.
0495-2383045, 2380443

CHAMBER # 340, KHCAA GOLDEN JUBILEE CHAMBER COMPLEX,
HIGH COURT OF KERALA, COCHIN – 682 031.

LEVEL 1, KESIYA TOWER, MARKET ROAD NORTH END,
OPP. UNION STEEL HOUSE, KOMBARA, COCHIN - 682 018.

0484 - 2970901, 4040902.

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03.01.2020

The Secretary,
Kerala Orthopedic Association

LEGAL OPINION

I. LIST OF DOCUMENTS SCRUTINIZED

(Photostat copies)

1. Sale Deed number 4249/06 dated 26-7-06
2. Sale Deed number 4250/06 dated 26-7-06
3. Sale Deed number 249/07 dated 17-1-07
4. Sale Deed number 6671/07 dated 7-9-07
5. Sale Deed number 8032/07 dated 4-12-07
6. Sale Deed number 7893/07 dated 26-11-07
7. Sale Deed number 3877/07 dated 26-04-07
8. Sale Deed number 835/05 dated 10-2-05
9. Sale Deed number 7398/04 dated 14-12-04
10. Sale Deed number 285/91 dated 28-1-91
11. Sale Deed number 4656/06 dated 18-8-06
12. Sale Deed number 283/91 dated 28-1-91
13. Sale Deed number 2415/04 dated 13-5-04
14. Partition Deed number 3247/87 dated 28-9-87
15. Settlement Deed number 2661/91 dated 26-7-91
16. Sale Deed number 97/92 dated 4-1-92
17. Property Tax Receipt number 170830 dated 18-12-19
18. Basic Tax Receipt number 4933147 dated 13-6-17
19. Building Permit number MOP5.28/06 dated 31-12-07
20. ENCM Certificate number 9390/18 dated 7-5-2019
21. Possession Certificate number 4718/19 dated 20-12-19
22. Location Certificate number 4718/19 dated 20-12-19
23. Rules and By Laws of IMA
24. Resolution numbered 22/18-19 dated 25-9-19

1st Floor, Rajaneesh Buildings, Opp. Judicial Officers Qrtz., Vanchiyoor, Trivandrum - 695 035
Flat No.303/401, Tower No.10, Supreme Towers, Sector -99, Noida - 210 304

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II. Report

1. An extent of 70 cents of land comprised in Sy. No 153 in Elamkulam village belonged to one Kakko, who is seen to have obtained the same, by virtue of the Will registered as No 21/1973 of Tripunithra Sub Registry Office and the Settlement Deed No 2083/1973 of Ernakulam Sub Registry Office. It is seen that Kakko executed an unregistered Will dated 11-11-1985 and bequeathed 30 cents of land to his son Franklin and 40 cents to another son Frederic. After the death of Kakko, Frederic and Franklin partitioned the property, in accordance with the terms of the said will, as per a Partition Deed No 3247 of 1987 of Ernakulam Sub Registry Office allotting respectively the 40 cents and 30 cents described in schedules A and B annexed to the said deed. The said Frederic and Franklin executed a **Sale Deed 4249 of 2006** dated 26-07-2006 (Document No.1 in the list) of Ernakulam SRO conveying an extent of 14.78 ares in Survey No 153 in Elamkulam Village along with half undivided share of a road described in the Schedule B to the said document in favour of the Indian Medical Association, Cochin Branch. The said Frederic and Franklin also assigned an extent of 11.12 ares of properties along with half undivided rights in the said properties to the Indian Medical Association Cochin Branch as per the **Sale Deed No 4250 of 2006** dated 26-07-2006 of SRO Ernakulam (Document No.2).
2. An extent of 1.21 ares comprised in Survey No 224/1 in Punithra Village originally belonged to one Appu Menon alias Krishnankutty Menon, which was part of a larger extent of property, by virtue of a Partition Deed No 1018/ 65 of SRO Ernakulam. As per a Will executed by the said Appu Menon as document No 18/89, he bequeathed 39 cents of land in favour of his son Shanthakumar subject to a life interest in favour of his wife Devakiamma. The said Appu Menon died on 2-18-89 and the Will became operative and Devakiamma died on 24-12-2001 and Shanthakumar as the legatee became entitled to the said property. Shanthakumar assigned an extent of 1.21 Ares in Sy. No 224/1 in Punithura village in favour of the said Frederick and Franklin as per the deed No 2415/2004 dated 13-5-2004 of SRO Maradu.
3. The aforesaid Shanthakumar and his wife Mayadevi died intestate and their children Gopikrishnan and Haripriya became entitled to the property which Shanthakumar was entitled to and they executed a Partition Deed No 435/6 of SRO Ernakulam whereby 12 cents of land in Sy No 224/1 was allotted to the said Gopikrishnan. The said Gopikrishnan executed the **Sale Deed No 249/2007** dated 17-01-2007 (Document No.3) assigning an extent of 0.147 Ares in Sy No 1224/1 in Punithura Village in favour of Indian Medical Association Cochin Branch.
4. An extent of 8.39 Ares in Survey No 142/1 in Elamkulam Village described as Item No 1 and 1.3 Ares in Sy No 142/1 of the same village and described as Item No 2 in the

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Settlement Deed No 2661/91, respectively belonged to one Thomas. He settled the said properties in favour of his wife Gracie as per the above Settlement Deed. Subsequently, said Gracie assigned an extent of 4.12 ares to one Sunil Elias as per the Sale Deed No 97/92 dated 04-01-92 of SRO Ernakulam, comprised in Elamkulam Village. Thereafter, Gracie assigned an extent of 4.25 ares in favour of Indian Medical Association Cochin Branch as per **Sale Deed No 6671/2007** dated 7-09-2007 (Document No.4) and registered at SRO Ernakulam together with the right to use an access leading to the property. The said Sunil Elias also assigned the 4.12 ares of land to Indian Medical Association Cochin Branch as per the **Sale Deed No 8032/2007** dated 4-12-2007 (Document No.5) and registered at the SRO Ernakulam along with a right to use a road.

5. An extent of 2.05 ares of land comprised in 142/1 in Elamkulam Village also belonged to the said Thomas which he obtained by virtue of a Partition Deed No 1541 of SRO Edapally and the same was assigned by him to one Chandramohan as per the Sale Deed No 283/1991 dated 28-01-1991 and registered at SRO Ernakulam. The said Chandramohan sold the property to one Harikumar and his wife Ramya as per the Sale Deed No 4656/2006 dated 18-8-2006 of SRO Ernakulam. Said Harikumar and Ramya in turn sold the said property to the Indian Medical Association Cochin Branch as per the **Sale Deed No 7893/2007** dated 26-11-2007 (Document No.6).
6. The said Thomas also assigned an extent of 2.08 ares in Survey No 142/1 in Elamkulam Village to one Ramesh Babu as per the Sale Deed No 285/91 dated 28-01-1991 and registered at SRO Ernakulam. The said Ramesh Babu sold his rights over the said property to one Nagesh and Benny as per the Sale Deed No 7398/2004 dated 14-12-2004 of SRO Ernakulam. The said Nagesh and Benny assigned their right over the said property to one Dharmarajan as per the Sale Deed No 838/2005 dated 10-02-2005 of SRO Ernakulam. The said Dharmarajan assigned the said property to Indian Medical Association Cochin Branch as per the **Sale Deed No 3877/2007** dated 26-4-2007 of the SRO Ernakulam (Document No.7).
7. The Indian Medical Association Cochin Branch after acquiring ownership over 39.77 ares of land as per the above Sale Deeds developed the property and constructed a residential apartment 'IMA House' after obtaining due license and permits from Corporation of Cochin and it is seen that occupancy certificate dated 31-12-2007 was also issued certifying that construction is completed.
8. The Indian Medical Association is seen paying basic tax and property tax in respect of said properties and building respectively and now encumbrance is seen attached to the said property as on 1-1-89.

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9. On going through the bye-laws of IMA, it is seen that the association is empowered under Clause 7(xix) to sell the property and as per the resolution No 22/2018-2019 dated 25-9-2019, the General Body of the Association unanimously decided to authorize the President and Secretary of the Association 7906 square feet of built up area in IMA House to Kerala Orthopedic Association.

III. Legal Opinion

1. After a scrutiny of the documents referred to above, it is seen that Indian Medical Association, Cochin Branch has obtained ownership rights over 38.547 Ares comprised in Sy. No 153, Sy. No 142/1 and 224/1 in Elamkulam and Poonithura villages respectively of Kanayannur Taluk, Ernakulam district.
2. In addition to that, the Indian Medical Association is having half undivided rights over 1.21 Ares of land being used as a way to the remaining properties.
3. From the possession certificate produced it is seen that Indian Medical Association is having right over 37.82 Ares of land.
4. I am of the opinion that the Indian Medical Association is having a clear and marketable title in the above property and in the building constructed therein named as IMA House.
5. I may also state that the Indian Medical Association, Cochin branch can validly transfer portion of the said building and undivided rights in the land described above in favour of Kerala Orthopedic Association.

Dated this the 3rd day of January, 2020

Shyam Padman