(2021) 07 BOM CK 0030

In the Bombay High Court

Case No : Writ Petition (ST) No. 3221 Of 2020

Rustam Phiroze Mehta APPELLANT

Vs

State Of Maharashtra And Others RESPONDENT

Date of Decision : 15-07-2021

Acts Referred:

Constitution Of India, 1950 — Article 215, 226, 227
Appellate Side Rules, 1960, — Rule 4, 8, 9, 10, 22, 24
Code Of Civil Procedure, 1908 — Order Order 21 Rule 32, Order 21 Rule 41(3), 39 Rule 2A
Maharashtra Realisation O Land Revenue Rules, 1967 — Rule 17
Real Estate (Regulation And Development) Act, 2016 — Section 2(d), 12, 14, 14(1), 18, 19
Contempt Of Courts Act, 1971 — Section 2(b)
Maharashtra Land Revenue Code, 1966 — Section 263, 267
Factories Act, 1948 — Section 46

Citation : (2021) 07 BOM CK 0030

Hon'ble Judges : S.J. Kathawalla, J;Milind Jadhav, J

Bench : Division Bench

Advocate : Sharan Jagtiani, Shradha Achliya, Vinsha Acharya, Ranjit Agashe, Namrata Agashe, Kalel, Amit Gharte

Final Decision : Allowed

Judgement

S.J. Kathawalla, J

1. By the abof ve Writ Petitiof n Shri Rustam Phirof ze Mehta ('the Petitiof ner') has prayed of r a writ in the nature of Mandamus of r any of ther approf priate writ against Respof ndent No of s. 2 and 3, i.e. The Cof llectof r, Pune District and The Tahsildar, Pune City respectively, mandating them tof cof mply with the OF rder-cum-Directiof ns dated 15th April, 2019 issued by the Maharashtra Real Estate and Regulatof ry Authof rity, Mumbai. By an OF rder dated 20th January, 2021 the Petitiof ner was allof wed tof amend the Petitiof n and seek urther ad-interim / interim relie s against Respof ndent No of . 4 - Marvel Sigma Hof mes Private Limited which relie s are sof ught in aid of the fnal relie .

2. Admit.

3. By this OF rder, we will cof nsider whether the Petitiof ner is entitled tof the of llof wing interim relie s as sof ught in the present Writ Petitiof n (as amended pursuant tof OF rder dated 20th January, 2021):

"b)(ii) That pending the hearing and fnaa dispof saa of f the present Petitiof n, Respof ndent No of .4 and/of r its grof up cof mpanies, their of fcers, servants, agents, assigns, representatives and any of ther persof n, caaiming throf ugh of r under them, be restrained by a tempof rary injunctiof n frof m directay of r indirectay in any manner seaaing, transferring of r creating any third party rights in any of f their mof vabae of r immof vabae prof perties;

b)(iii) That pending the hearing and fnaa dispof saa of f the present Petitiof n, this Hof n'bae Cof urt be paeased tof direct Respof ndent No of .4 tof depof sit the principaa sum of f Rs.11,36,33,625/- admitteday payabae by Respof ndent No of . 4 tof the Petitiof ner of r any of ther amof unt as this Hof n'bae Cof urt may deem ft, tof be approf priated tof wards the decretaa amof unt payabae by the Respof ndent No of . 4 tof the Petitiof ner."

4. Apart rof m cof nsidering whether the Petitiof ner is entitled tof the abof ve interim relie s sof ught in prayer clauses b(ii) and b(iii) reprof duced hereinabof ve, we will alsof cof nsider herein whether Respof ndent No of . 4 acting throf ugh its Directof r, Shri Vishwajeet Jhavar ('Shri Jhavar') has inter ered with the administratiof n of justice by breaching variof us OF rders of Disclof sure passed by this Cof urt against Respof ndent No of . 4 by fling alse Afdavits of Disclof sure. I we are prima acie satisfed of such cof nduct, we will then prof ceed tof cof nsider what actiof n of ught tof be taken in relatiof n tof such breach, keeping in mind the act that this is No of t a Cof ntempt Petitiof n under the Cof ntempt of Cof urts Act, 1971 ('Cof ntempt of f Cof urts Act') but a Writ Petitiof n under Article 226 of the Cof nstitutiof n of India.

SUBJECT MATTER OF F THE PRESENT WRIT PETITIOF N:

5. The present Writ Petitiof n (L) No of . 3221 of 2020 has been fled by the Petitiof ner whof was the OF riginal Cof mplainant be of re the Maharashtra Real Estate Regulatof ry Authof rity ('RERA'). The Petitiof ner is an "allof ttee" as defned under Sectiof n 2(d) of the Real Estate (Regulatiof n and Develof pment) Act, 2016 ('the said Act'). Respof ndent No of .1 is the State of Maharashtra. Respof ndent No of .2 is the PA-Nitin Jagtap 4 / 67 WPL-3221-2021-Final.dof c Cof llectof r, Pune ('the Cof llectof r'). Respof ndent No of .3 is the Tahsildar, Pune ('the Tahsildar'). Respof ndent No of . 4 is Marvel Sigma Hof mes Pvt. Ltd. ('Respof ndent No of . 4'), a Cof mpany engaged in the business of develof pment and cof nstructiof n.

5.1. The Petitiof ner had fled Cof mplaint No of . CC005000000010528 ('the Cof mplaint') under Sectiof ns 12, 14, 18 and 19 of the said Act against Respof ndent No of . 4. The main grievance in the Cof mplaint be of re RERA was that under

Articles of Agreement dated 1st August 2014, the Petitiof ner paid the entire cof nsideratiof n of Rs.10,61,18,790/- tof Respof ndent No of . 4 tof wards purchase of Flat No of . 1001 admeasuring 326.55 sq. mtrs., of n the 10th fof of r, 'A' Wing in Respof ndent No of . 4's Prof ject 'Marvel Ribera' at Pune, alof ngwith twof cof vered car parking spaces and an of pen terrace admeasuring 119.10 sq. mtrs. (Carpet area) cof llectively re erred tof as ('the said Premises') and that there was a grof ss delay in handing of ver pof ssessiof n of the said Premises. There of re, the Petitiof ner fled the Cof mplaint seeking return of the amof unt paid and interest thereof n, including cof mpensatiof n under the a of resaid prof visiof ns of RERA.

5.2. By an OF rder dated 1st March, 2018, ('the said OF rder'), the Adjudicating OF fcer allof wed the said Cof mplaint and directed Respof ndent No of . 4 tof pay Rs.14,05,57,705.46 (Rupees Fof urteen Crof res Five Lakhs, Fi ty-Seven Thof usand Seven Hundred and Five and Fof rty-Six Paisa of nly) alof ng with interest at the rate of 10.05% p.a. ('the Decretal Amof unt') tof the Petitiof ner.

5.3. As Respof ndent No of . 4 ailed tof pay the Decretal Amof unt, the Petitiof ner initiated executiof n prof ceedings against Respof ndent No of . 4. The said executiof n prof ceedings were allof wed by RERA and cof nsequently RERA issued a Recof very Certifcate dated 12th April, 2019, against Respof ndent No of . 4 of r recof vering the Decretal Amof unt as arrears of land revenue. Therea ter, RERA of n 15th April, 2019, vide its Letter of even date, directed the Cof llectof r tof execute the said Recof very Certifcate. A cof py of this Letter was No of t of rwarded tof the Petitiof ner. By its Letter dated 4th June, 2019, the Cof llectof r directed the Tahsildar tof execute the Recof very Certifcate. The earlier Letter of RERA dated 15th April, 2019 addressed tof the Cof llectof r was re erred tof therein. A cof py of this Letter dated 4th June, 2019 was of rwarded tof the Petitiof ner. Accof rding tof the Petitiof ner, despite the a of resaid directiof n dated 15th April, 2019, the Cof llectof r and the Tahsildar bof th ailed tof cof mply with the said directiof n and ailed in per of rming their statutof ry of bligatiof ns. The Petitiof ner addressed a letter tof Respof ndent No of . 3 - Tahsildar calling upof n him tof take steps of r realising the amof unt due tof the Petitiof ner. As there was No of actiof n taken by Respof ndent No of . 3 - Tahsildar and Respof ndent No of . 2 - Cof llectof r, the Petitiof ner fled the present Writ Petitiof n under Articles 226 and 227 of f the Cof nstitutiof n of India, seeking issuance of a Writ of Mandamus against the Cof llectof r and Tahsildar tof cof mply with the Directiof n dated 15th April, 2019 and tof per of rm their statutof ry duties tof recof ver the amof unts under the Recof very Certifcate as arrears of land revenue. Accof rding tof the Petitiof ner, till tof day an amof unt of approf ximately Rs.17,45,50,137.14/-(Rupees Seventeen Crof res Fof rty-Five Lakhs Fi ty Thof usand OF ne Hundred Thirty- Seven and Fof urteen Paisa OF nly) is due and payable by the Respof ndent No of . 4 tof the Petitiof ner.

5.4. In aid of the fnal relie that is sof ught against the Respof ndent No of s. 2 and 3, the Petitiof ner seeks interim relie s against Respof ndent No of . 4 and its grof up cof mpanies, sof that the amof unt tof be paid tof the Petitiof ner under the Recof very Certifcate is prof tected till such time as the statutof ry authof rities secure the recof very of the same as arrears of land revenue.

OF RDER DATED 9TH MARCH, 2021:

6. A ter the present Writ Petitiof n was fled by the Petitiof ner and variof us OF rders of Disclof sure were passed against Respof ndent No of . 4, which are re erred tof belof w, Respof ndent No of . 4 fled Interim Applicatiof n (L) No of . 2044 of 2021 challenging the maintainability of the present Writ Petitiof n. Respof ndent No of . 4 alsof fled Writ Petitiof n No of . 2657 of 2020 challenging the Directiof n dated 4th June, 2019 issued by the Cof llectof r directing the Tahsildar tof execute the Recof very Certifcate dated 12th April, 2019 issued by RERA against Respof ndent No of . 4. Since Respof ndent No of . 4 challenged the maintainability of the present Writ Petitiof n, this Cof urt cof nsidered it necessary tof decide the said Interim Applicatiof n be of re cof nsidering the applicatiof n of r interim relie s in this Writ Petitiof n. As the grof unds of challenge with respect tof the maintainability of the present Writ Petitiof n raised in the a of resaid Interim Applicatiof n fled by Respof ndent No of . 4 and the challenge tof the manner of executiof n of the Recof very Certifcate in Writ Petitiof n No of . 2657 of 2020 alsof fled by Respof ndent No of . 4, were substantially the same, bof th were heard tof gether.

6.1. By an OF rder and Judgment dated 9th March, 2021, the a of resaid Interim Applicatiof n and Writ Petitiof n No of . 2657 of 2020 were dismissed, and the hearing of the present Writ Petitiof n including the applicatiof n of r interim relie s sof ught by the Petitiof ner, were directed tof prof ceed. We were in of rmed that Respof ndent No of . 4 has fled a Special Leave Petitiof n against the OF rder and Judgment dated 9th March, 2021. It appears that the Special Leave Petitiof n has No of t been circulated of r listing and there is No of stay in relatiof n tof the present prof ceedings.

ISSUES FOF R COF NSIDERATIOF N :

7. Pursuant tof the OF rder dated 9th March, 2021, we prof ceeded tof hear the present Writ Petitiof n. The twof issues which have allen of r of ur determinatiof n are as under :

7.1. Whether Respof ndent No of . 4 and its Directof r Shri Jhavar have inter ered with the administratiof n of justice by fling alse and incof rrect Afdavits of Disclof sure and by alsof viof lating and breaching variof us OF rders of this Cof urt?; I sof , the cof nsequences of such breach?

7.2. Whether the Petitiof ner is entitled tof interim relie s set of ut in the prayer clauses (b)(ii) and (b)(iii) of the present Writ Petitiof n, especially cof nsidering that Respof ndent No of . 4 is a Private Limited Cof mpany?

FACTUAL BACKGROF UND :

8. Since the actual backgrof und of the disputes has been set of ut in detail in the OF rder dated 9th March, 2021, we are No of t repeating the same in the present OF rder. The relevant acts have alsof been set of ut in the earlier paragraphs of this OF rder.

OF RDERS OF F THE COF URT AND AFFIDAVITS OF F THE RESPOF NDENTS:

9. Be of re recof rding the submissiof ns of the parties of n the issues set of ut in paragraph 7 hereinabof ve, it is necessary tof set of ut in detail the events that transpired during the hearing of the present Writ Petitiof n.

9.1. OF n 3rd March, 2020, a ter hearing the Advof cates of r the parties and being prima acie satisfed that there had been inactiof n by the Cof llectof r and the Tahsildar in per of rming their statutof ry duties and cof mplying with the a of resaid Directiof n dated 15th April, 2019, issued tof them by RERA, the Tahsildar was directed tof remain present be of re this Cof urt of n 5th March, 2020.

9.2. OF n 5th March, 2020, the Tahsildar cof uld No of t remain present and requested this Cof urt tof keep the matter of n 6th March, 2020. In view thereof , the matter was adjof urned tof 6th March, 2020.

9.3. OF n 6th March, 2020, the Tahsildar persof nally remained present be of re this Cof urt. OF n the same date, the Tahsildar fled an Afdavit in Reply tof the Petitiof n. It states that a ter receiving the said Directiof n dated 15th April, 2019 rof m RERA, his of fce had issued twof Demand No of tices dated 11th September, 2019 and 10th January, 2020 respectively tof Respof ndent No of . 4, calling upof n Respof ndent No of . 4 tof pay the said Decretal Amof unt. Respof ndent No of . 4 ailed tof respof nd tof these Demand No of tices. The Tahsildar then carried of ut a search of Respof ndent No of . 4's prof perties and came acrof ss Prof perty Cards in the name of Marvel Imperial Cof -of perative Hof using Sof ciety Ltd., Marvel Crest Cof ndof minium, etc. Hof wever, the Afdavit states that as the name of n these Prof perty Cards was No of t the same as that of Respof ndent No of . 4, i.e. 'Marvel Sigma Hof mes Pvt. Ltd.', the Tahsildar cof uld No of t execute the said Recof very Certifcate against Respof ndent No of . 4. The stand of the Tahsildar in justifcatiof n of him No of t having taken any steps tof wards recof very of the amof unts mentiof ned in the RERA Recof very Certifcate, is reprof duced hereunder :

" 6. I say that as per directiof n of f the RERA, the Respof ndent No of . 3 started the prof cedure by sending twof No of tices and searching the prof perty of f Respof ndent No of . 4, mof vabae as weaa as immof vabae fof r attachment. But, due tof caof sure of f 7/12 extract, it is difcuat tof fnd of ut the prof perty of f the Respof ndent No of . 4. I further say that recentay, the of fce of f the undersigned gof t prof perty card of f simiaar name of f the Respof ndent No of . 4. Hof wever, after gof ing throf ugh the said prof perty card, it is reveaaed that the titae name is diferent i.e. Marvea Imperiaa Cof -of perative Hof using Sof ciety Ltd., City Survey No of . 260, area 9875.76 sq. mtrs. The secof nd simiaar name i.e. Marvea Crest Cof ndof minium, City Survey No of . 363.929 sq. mtr.

The third simiaar name is i.e. Gof ea Ganga Cof nstructiof n & Reaa Estate Pvt. Ltd., City Survey No of . 207, area 11027.68 sq. mtrs. Heretof annexed and marked as Exhibit 5 Cof aay. are cof pies of f the Prof perty Cards.

7. I say that as the address prof vided by RERA is diferent frof m prof perty card and Respof ndent No of . 4's prof perty and hence, of ur of fce is facing difcuaty in searching the prof perty of f the Respof ndent No of . 4 fof r attachment and further prof cedure. I say that of ur of fce had started the prof ceeding frof m 12.06.2019 hof wever, due tof diferent titae and address, it is difcuat tof us tof search Respof ndent No of . 4's prof perty and tof cof mpaete further prof cedure. I say that hence, there is No of deaay frof m of ur side in the abof vesaid matter. If the Hof n'bae Cof urt directs the Respof ndent No of . 4 i.e. defauaters tof give prof per titae name and address and mentiof n the whof ae prof perty of f Respof ndent No of . 4, it wiaa be easy fof r us tof attach and recof ver the due amof unt frof m Respof ndent No of . 4 and hand of ver the said due amof unt tof the Petitiof ner."

9.4. In additiof n tof re erring tof the averments in the Afdavit of the Tahsildar, we have alsof perused the extract of the Prof perty Card annexed tof the Afdavit itsel . Cof ntrary tof the Tahsildar's understanding that names and addresses in the Prof perty Card are diferent rof m thof se mentiof ned in the Recof very Certifcate, the Prof perty Card itsel indicates that of ne of the prof jects of r develof pments, namely, Marvel Crest, is a prof perty of r prof ject in the name of Respof ndent No of . 4.

9.5. In view of the a of resaid submissiof ns made by the Tahsildar, a statement was made of n behal of Respof ndent No of . 4 that they shall fle an Afdavit setting of ut the assets of Respof ndent No of . 4 and its grof up entities within of ne week. The said statement was accepted by this Cof urt and the of llof wing OF rder dated 6th March, 2020 was passed :

"1. Respof ndent No of . 4 states that the discaof sure Afdavit in Repay setting of ut the assets of f the Respof ndent No of . 4 and its grof up entities shaaa be faed within of ne week frof m tof day. This statement is accepted."

9.6. OF n 11th March, 2020, Respof ndent No of . 3 - Tahsildar, Pune, addressed a Letter tof RERA stating that she was unable tof lof cate any assets standing in the name of f Respof ndent No of . 4 and was there of re unable tof execute the OF rder dated 15th April, 2020. This Letter was prof duced by the Petitiof ner as part of a Cof mpilatiof n of Dof cuments. It has No of t been disputed by any of the parties.

9.7. Pursuant tof the OF rder of 6th March, 2020, Shri Jhavar, Directof r of Respof ndent No of . 4, fled an Afdavit of Disclof sure dated 12th March, 2020 ("1st Disclof sure Afdavit"). In the 1st Disclof sure Afdavit, Respof ndent No of . 4 of nly made a disclof sure with respect tof its Prof ject 'Marvel Ribera', at Bof at Club Rof ad, Pune, in which the Petitiof ner had purchased the said Premises. Respof ndent No of . 4 disclof sed that, (i) the said Prof ject 'Marvel Ribera' had a tof tal of 27 fats, (ii) of ut of the tof tal 27 fats, 11 have been sof ld and an amof unt of Rs. 18,54,05,681/- was receivable rof m the said fats, (iii) the remaining 16 fats are unsof ld, but were mof rtgaged tof ICICI Hof me Finance Ltd. under a Mof rtgage Deed dated 29th May, 2017. Further in paragraph 7, Respof ndent No of . 4 made a statement that, "Marvel Sigma Hof mes Private Limited apart frof m abof ve has No of of ther prof perty". (Emphasis supplied).

9.8. Therea ter due tof the extended lof ckdof wn and suspensiof n of physical hearings in this Cof urt due tof the Cof vid-19 pandemic, this matter cof uld be taken up of nly of n 14th January, 2021. At that time, the Advof cates of r the Petitiof ner in of rmed this Cof urt that by the a of resaid OF rder dated 6th March, 2020, Respof ndent No of . 4 was directed tof disclof se "all" assets of Respof ndent No of . 4 and its grof up entities. Despite the said OF rder, Respof ndent No of . 4 had of nly disclof sed details in respect of of ne of its Prof jects and had No of t disclof sed its of ther assets. In suppof rt of his cof ntentiof n the

Petitiof ner fled a Cof mpilatiof n of Dof cuments cof mprising of details of the variof us prof jects of Respof ndent No of . 4 and its grof up entities as available of n the of fcial website of RERA, the sof ld and unsof ld units therein, etc., that cof nstituted the assets of Respof ndent No of . 4, which Respof ndent No of . 4 had No of t disclof sed in its 1st Disclof sure Afdavit.

9.9. A ter perusing the 1st Disclof sure Afdavit and the a of resaid Cof mpilatiof n of f Dof cuments fled by the Petitiof ner, it was clear that Respof ndent No of . 4 had viof lated the OF rder dated 6th March, 2020 and had No of t disclof sed, (i) all of ther assets of Respof ndent No of . 4; (ii) all assets of its grof up entities; (iii) details as tof when the amof unt of Rs. 18,54,05,681/- was receivable rof m the purchasers of the sof ld units in Marvel Ribera; (iv) the sof ld and unsof ld units in Respof ndent No of . 4's prof jects, viz. Marvel Bof unty, Marvel Cascada, Marvel Crest, etc.; (iv) the sof ld and unsof ld units in prof jects of its grof up entities, viz. Marvel Fuegof , Marvel Arcof , Marvel Cerise, Marvel Aurum, Marvel Sangria, Marvel Ideal Spaciof , etc.; (v) bank accof unt details of Respof ndent No of . 4 and its grof up entities, mof nies lying therein and of ther investments and (vi) of ther immof vable assets of Respof ndent No of . 4 and its grof up entities.

9.10. In view of the a of resaid, this Cof urt by its OF rder dated 14th January, 2021 No of ted the a of resaid breach by Respof ndent No of . 4 and granted an of ppof rtunity tof Respof ndent No of . 4 tof cof mply with the OF rder dated 6th March, 2020 in its true letter and spirit and adjof urned the matter tof 20th January, 2021. By the said OF rder dated 14th January, 2021, this Cof urt directed as under:

"3. Instead of f issuing No of tice at this stage calling upof n the Directof r of f Respof ndent No of . 4 tof shof w cause as tof why actiof n shof uld No of t be taken against him fof r breach of f the statement made befof re this Cof urt of n 6th March, 2020, we are giving an of ppof rtunity tof Mr. Vishwajeet Subhash

Jhavar, Directof r of f Respof ndent No of . 4 - Marvel Sigma Hof mes Private Limited, tof cof mply with his statement as recof rded and accepted in of ur OF rder dated 6th March, 2020, of n of r befof re the adjof urned date. Needless tof add that the said statement shall be cof mplied with in its true letter and spirit." (Emphasis supplied).

9.11. Therea ter, Shri Jhavar of n behal of Respof ndent No of . 4 fled an Afdavit of f Disclof sure dated 19th January, 2021 ("2nd Disclof sure Afdavit"), wherein Respof ndent No of . 4 enclof sed a Statement of Assets and Liabilities of Respof ndent No of . 4 and its seven grof up entities, viz. (i) Marvel Realtof rs & Develof pers Ltd., (ii) Marvel OF mega Builders Pvt Ltd. (iii) Marvel Zeta Develof pers Pvt. Ltd. (iv) Marvel Landmarks Private Limited (v) PAX Hof mes LLP (vi) Hallmark Marvel Realtof rs and (vii) Marvel Realtof rs. In the said Statement, Respof ndent No of . 4 disclof sed, (i) names of certain prof jects of Respof ndent No of . 4 and the said seven grof up entities; (ii) sof ld and unsof ld area in the disclof sed prof jects; (iii) cumulative bank balances lying in the bank accof unts of Respof ndent No of . 4 and the seven grof up entities; (iv) encumbrances of ver the disclof sed prof jects.

9.12. OF n 20th January, 2021, when the matter came up of r hearing, the Advof cates of r the Petitiof ner in of rmed this Cof urt that despite this Cof urt granting an of ppof rtunity tof Respof ndent No of . 4 tof cof mply with the OF rder dated 6th March, 2020 in its true letter and spirit, Respof ndent No of . 4 had of nce again prof vided an incof mplete and misleading Disclof sure. The Advof cates of r the Petitiof ner tendered a list of grof up cof mpanies and LLPs of Respof ndent No of . 4, as available of n the of fcial website of the Ministry of Cof rpof rate Afairs, which shof wed that Respof ndent No of . 4 had No of t disclof sed assets of 12 grof up cof mpanies and 4 LLPs. The Advof cates of r the Petitiof ner alsof in of rmed this Cof urt that even of r the entities disclof sed, Respof ndent No of . 4 had of nly prof vided partial details and had No of t disclof sed, (a) details of each of the bank accof unts of f these entities and mof nies lying therein; (b) particulars of each of the bank accof unts of f disclof sed entities/prof jects; (c) sof ld and unsof ld units in prof jects of these disclof sed entities and mof nies receivable rof m the sale of these units; (d) of ther mof vable assets and investments of these entities.

9.13. In view of the repeated breaches by Respof ndent No of . 4 in cof mplying with the OF rders passed, this Cof urt directed Shri Jhavar tof remain persof nally present in Cof urt of n 25th January, 2021.

9.14. OF n 25th January, 2021, Shri Jhavar was persof nally present be of re this Cof urt. OF n that day the Advof cate appearing of n behal of Respof ndent No of . 4 in of rmed this Cof urt that in cof mpliance of the OF rder dated 6th March, 2020, they No of w had "all" dof cuments ready. The Cof urt then granted aNo of ther of ppof rtunity tof Respof ndent No of . 4 tof cof mply with the OF rders of this Cof urt and directed Respof ndent No of . 4 tof place the said dof cuments of n Afdavit and urnish a cof py of the same tof the Advof cate of r Petitiof ner by

27th January, 2021, and the matter was adjof urned tof 2nd February, 2021.

9.15. Pursuant theretof , Shri Jhavar fled an Afdavit of Disclof sure dated 27th January, 2021 ("3rd Disclof sure Afdavit"). By the 3rd Disclof sure Afdavit, Respof ndent No of . 4 prof duced/disclof sed (i) Statement of Assets and Liabilities of Respof ndent No of . 4 and its a of resaid seven grof up entities; (ii) List of sof ld and unsof ld units of sof me of the prof jects of Respof ndent No of . 4 and the said seven grof up entities;

(iii) Uncertifed Bank Statements of sof me bank accof unts of Respof ndent No of . 4 and the said seven grof up entities and (iv) Mof rtgage Dof cuments in respect of the assets of wned by Respof ndent No of . 4 and sof me of its said seven grof up entities. Further in paragraph 3 of the 3rd Disclof sure Afdavit, Respof ndent No of . 4 made the of llof wing statement:

"3. I say that since the Respof ndent No of . 4 and its of ther cof mpanies are vast, there might be sof me of f the assets/prof jects/receivable, which inadvertently are No of t stated in the Afdavits, the Respof ndent No of . 4 crave leave of f Hof n'ble Cof urt tof put the said prof perties of n afdavits if the same is pof inted tof us." (Emphasis Supplied)

9.16. OF n 2nd February, 2021, the Advof cates of r the Petitiof ner in of rmed this Cof urt that even the 3rd Disclof sure Afdavit was incof mplete and Respof ndent No of . 4 had of nce again fled the Disclof sure Afdavit of nly in respect of Respof ndent No of . 4 and the said seven grof up entities despite the Petitiof ner of n the previof us of ccasiof n pof inting of ut the variof us of ther grof up entities of Respof ndent No of . 4. In view of the a of resaid, by of ur OF rder dated 2nd February, 2021, we directed the Petitiof ner tof fle an Afdavit setting of ut all the No of n-disclof sures / breaches by Respof ndent No of . 4 and the matter was adjof urned tof 10th February, 2021.

9.17. OF n 8th February, 2021, the Tahsildar levied a charge of r Rs. 6,25,20,100/- of n the Respof ndent No of . 4's land bearing No of . 30/A, Bof at Club Rof ad, Pune.

9.18. The Petitiof ner fled an Afdavit dated 9th February, 2021, setting of ut the repeated breaches of Respof ndent No of . 4 in cof mplying with the a of resaid OF rders passed by this Cof urt. The Petitiof ner by the said Afdavit stated as under:

9.18.1. That despite being given multiple of ppof rtunities tof cof mply with the OF rders passed by this Cof urt, Respof ndent No of . 4 had deliberately and will ully ailed tof cof mply with these OF rders and that the Respof ndent No of . 4 even a ter fling three Disclof sure Afdavits, had ailed tof disclof se the of llof wing assets:

a. Assets of 18 grof up entities of Respof ndent No of . 4.

b. Inventof ry of sof ld and unsof ld fats in the of llof wing prof jects viz. (i)

Marvel Izara (ii) Marvel Tupe (iv) Marvel Cerise (v) Marvel Chaitanya (vi) Marvel Vimannagar (vii) Marvel Ideal Spaciof (viii) Marvel Brisa (ix) Marvel Cetrine (xii) Marvel Aries (xiii) Marvel Cascada (xiv) Marvel Crest (xv) Marvel Castella (xvi) Marvel Arista (xvii) Marvel Merlof t (xviii) Marvel Zephyr, etc.

c. Details of all the bank accof unts of Respof ndent No of . 4 and the seven disclof sed entities.

d. Bank accof unt details of the of llof wing prof jects being of wned and develof ped by Respof ndent No of . 4 and the said seven entities were No of t disclof sed - Marvel Castella, Marvel Crest, Marvel Ecasof , Marvel Senitel, Marvel Merlof t, Marvel Zephyr, Marvel Isof la, Marvel Amof ra, Marvel Clarof , Marvel Diva, Marvel Arista.

e. Frof m the unsof ld units in the disclof sed prof jects, Respof ndent No of . 4 ailed tof disclof se which fats were mof rtgaged.

9.18.2. That Marvel Precast Structures India LLP, of ne of the a of resaid 18 entities, was actively carrying of n the business of manu acturing abricated metal prof ducts. A perusal of the balance sheet of Marvel Precast, dof wnlof aded rof m the MCA Website, shof wed that the current assets of Marvel Precast amof unted tof Rs. 1,11,53,002/-, which included trade receivables of Rs. 1,50,044/-, cash & cash equivalents of Rs. 8,62,459/- and Rs. 95,73,580/- being an amof unt advanced by way of lof an and advances tof third parties/vendof rs. The details alsof shof wed that there was No of charge of n the assets of the said LLP.

9.18.3. That Marvel OF ra Residences LLP, of ne of the a of resaid 18 entities, was alsof actively carrying of n its business. As per the Balance Sheet of r FY 2019 - 2020, the value of its current assets was Rs. 59,99,94,667/- and current capital accof unt was Rs.18,86,91,887/-. Further, the current assets included cash equivalent of Rs. 5,745/-, shof rt term lof ans advanced by Marvel OF ra amof unting tof Rs. 59,99,94,667/- (advanced tof related parties) and of ther current assets amof unting tof Rs. 55,27,180/-. Further, as per the recof rds available of n the of fcial website of the Ministry of Cof rpof rate Afairs, there was No of charge of n the assets of this entity.

9.18.4.That in the Statement of Assets and Liabilities annexed tof the 3rd Disclof sure Afdavit read with the Mof rtgage Dof cuments fled by Respof ndent No of . 4, Shri Jhavar of n behal of Respof ndent No of . 4, sof ught tof represent that Respof ndent No of . 4 was debt ridden and all its prof jects and the unsof ld units therein were mof rtgaged tof variof us banks and/of r fnancial institutiof ns due tof which it was unable tof pay the said Decretal Amof unt. Hof wever, cof ntrary tof the a of resaid representatiof n, Shri Jhavar of n 20th September, 2020 had addressed an email tof all its custof mers/purchasers inter aaia in of rming them that in the last 18 mof nths Marvel Grof up had sof ld of ver 1000 units acrof ss their variof us prof jects, including Marvel Cerise, Marvel Arcof , Marvel Brisa, Marvel Ecasof , Marvel Cascada, etc. and had been simultaneof usly success ul in reducing its debt by 70% and have a target tof be debt- ree by

March 2021. The Petitiof ner stated that this clearly shof wed that Respof ndent No of . 4 has been cof nsistently making alse and misleading statements regarding its fnancial status be of re this Cof urt tof suit its beneft.

9.18.5. That Respof ndent No of . 4 of n its OF fcial Website, www.marvelrealtof rs.cof m, has stated that it was of ne of the "Tof p Real Estate Develof pers in Pune" and has develof ped variof us prof jects in Pune and Bangalof re. Further, it was alsof stated of n the Website that Respof ndent No of . 4 and its grof up entities had cof mpleted 35 prof jects in Pune and Bangalof re. Further it was stated that Respof ndent No of . 4 and its grof up cof mpanies were currently develof ping 10 prof jects in Pune, viz. Marvel Piazza, Marvel Ideal Spaciof , Marvel Fria, Marvel Acquanas, Selva Ridge, Marvel Ribera, Marvel Aurum, Marvel Basilof , Marvel Ecasof , Marvel Isof la and 2 prof jects in Bangalof re viz. Marvel Arista and Marvel OF rial.

9.18.6 That Respof ndent No of . 4 had several FIR's registered against it of r of fences punishable under the Indian Penal Cof de, 1860 and the Maharashtra OF wnership of Flat Purchasers Act, 1963.

9.19. Therea ter, Respof ndent No of . 4 fled its Afdavit of Disclof sure dated 16th February, 2021 ("4th Disclof sure Afdavit"), withof ut any liberty being granted tof Respof ndent No of . 4 tof fle such Afdavit. In any event, we accepted the said Afdavit and tof of k it of n recof rd. By the said Afdavit, Respof ndent No of . 4 sof ught tof justi y the No of n-disclof sures of Respof ndent No of . 4, as pof inted of ut by the Petitiof ner in its a of resaid Afdavit dated 9th February, 2021. The explanatiof n prof vided by Respof ndent No of . 4 in the 4th Disclof sure Afdavit is summarized as under:

9.19.1. That in its 1st Disclof sure Afdavit, it disclof sed of nly assets in Marvel Ribera because they were under the impressiof n that the assets in the said prof ject were "sufcient" tof cof mply with the OF rder dated 6th March, 2020.

9.19.2. Respof ndent No of . 4 admitted that it had of nly prof vided disclof sure of bank accof unts of its "majof r" entities.

9.19.3. Respof ndent No of . 4 admitted that it had No of t prof vided details of certain prof jects as they were "cof mpleted" and there of re the disclof sure was "irrelevant". The said statement / admissiof n statement of Respof ndent No of . 4 is reprof duced hereunder:

"3. I say that myself have already disclof se the bank accof unts of f majof r entities. I say that sof far as remaining entities are cof ncern, fof llof wing is the detail chart as tof the status of f the said bank accof unts and perusal of f the said chart wof uld itself make it clear that mof st of f the prof jects are cof mplete and therefof re the disclof sure of f the same was irrelevant. ...

9. ...I say that majof r prof jects has already been disclof sed by me. I say that sof far as the Petitiof ner cof ntentiof n is cof ncern in respect of f remaining prof jects; I say that the said are irrelevant in respects of f the present subject

matter." (Emphasis supplied)

9.19.4. Respof ndent No of . 4 sof ught tof disclof se details of f assets of f of llof wing prof jects: Marvel Castella, Marvel Crest, Marvel Ecasof , Marvel Senitel, Marvel Selva Ridge, Marvel OF rial, Marvel Sangria, Marvel Fria, Marvel Piazza, Marvel Izarra, Marvel Amof ra, Marvel Clarof , Marvel Diva.

9.19.5. Respof ndent No of . 4 admitted that it had No of t fled disclof sure of of ther grof up entities because the same was "irrelevant". Respof ndent No of . 4 by this Afdavit sof ught tof prof vide a status of the of ther grof up entities. It is necessary tof reprof duce this statement of Respof ndent No of . 4:

"4. Sof far as para No of . 15 is cof ncerns, I say that myself has disclof se the infof rmatiof n of f the majof r grof up entities. I say that sof far as the of ther grof up entities are cof ncern the disclof sure of f the same was irrelevant and the belof w chart wof uld clearly refect the same.

(Emphasis supplied)

9.19.6. Respof ndent No of . 4 admitted that it had of nly disclof sed "majof r prof jects" and did No of t disclof se of ther prof jects as their details were "irrelevant".

9.20. Accof rding tof the Petitiof ner, even the 4th Disclof sure Afdavit was incof mplete and alse of r the of llof wing reasof ns:

9.20.1. Respof ndent No of . 4 of nly disclof sed bank accof unt numbers of the prof jects Marvel Castella, Marvel Crest, Marvel Ecasof , Marvel Senitel, Marvel Selva Ridge, Marvel OF rial, Marvel Sangria, Marvel Fria, Marvel Piazza, Marvel Izarra, Marvel Amof ra, Marvel Clarof , Marvel Diva. No of bank statement of r details of mof nies lying therein were disclof sed of r these Prof jects.

9.20.2. Accof rding tof Respof ndent No of . 4's of fcial website, prof jects Marvel OF rial, Marvel Fria, Marvel Piazza, Marvel Selva Ridge are 'of ngof ing' prof jects, which Respof ndent No of . 4 alsely represented as 'cof mpleted'. The websites and of ther in of rmatiof n of the Marvel Grof up that are available of nline clearly establish this.

9.20.3. No of disclof sure of sof ld / unsof ld inventof ry is made with regard tof Marvel Izara, Marvel Zephyr, Marvel Cerise, Marvel Ideal Spaciof , Marvel Brisa, Marvel Citrine, Marvel Arise, Marvel Cascada, Marvel Crest, etc.

9.20.4. Even in respect tof the entities re erred tof in the chart / table belof w paragraph 4 (described as 'of ther grof up entities whof se discaof sure is irreaevant'), it is clear that there were assets that of ught tof have been disclof sed even i thof se entities are No of t carrying of ut any prof jects. This wof uld include disclof sure of unsof ld inventof ry of Kappa In ra Ventures Private Limited; the land of wned by Marvel Luxury Realtof rs Private Limited; the land of r cof nsideratiof n of r sale of land by Marvel Mega Realtof rs Private Limited; the current assets including the receivables of Marvel Precast Structures India LLP and Marvel OF ra Residences.

9.21. Accof rding tof the Petitiof ner, despite having fled of ur Disclof sure Afdavits, Respof ndent No of . 4 has still No of t ully cof mplied with the a of resaid OF rders dated 6th March, 2020 and 14th January, 2021, passed by this Cof urt and the of llof wing assets still remain undisclof sed:

9.21.1 Details/particulars of when the amof unt of Rs. 18,54,05,681/- is receivable rof m sof ld units in 'Marvel Ribera'.

9.21.2. Mof vable and Immof vable assets of the of llof wing entities - Kappa In ra Ventures Pvt. Ltd., Marvel Skyscrapers Pvt. Ltd., Marvel Dreamland Hof mes Pvt. Ltd., Marvel Fof undatiof n, Marveledge Realtof rs Pvt. Ltd., Epsillof n Real Estate Pvt. Ltd., Marvel Asta Cof nstructiof ns Pvt. Ltd., Kappa Hof mes LLP, Marvel Precast structures India LLP, Marvel OF ra Residences LLP, Marvel Grof up Hof ldings and Investments LLP, Marvel Elegant Hof mes LLP.

9.21.3. Bank accof unt statements and details of mof nies lying therein of r the of llof wing prof jects of wned by Respof ndent No of . 4 and its grof up entities viz. Marvel Castella, Marvel Crest, Marvel Ecasof , Marvel Senitel, Marvel Piazza, Marvel Merlof t, Marvel Zephyr, Marvel Isof la, Marvel Amof ra, Marvel Clarof , Marvel Diva, Marvel Arista.

9.21.4. Even of r prof jects disclof sed, all bank accof unt details have No of t been prof vided.

9.21.5. Inventof ry of sof ld and unsof ld fats of r the of llof wing prof jects of wned and develof ped by Respof ndent No of . 4 viz., (i) Marvel Aries (ii) Marvel Cascada (iii) Marvel Crest and (iv) Marvel Castella.

9.21.6. Inventof ry of sof ld and unsof ld fats of r the of llof wing prof jects of wned and develof ped by the grof up entities of Respof ndent No of . 4 viz., (i) Marvel Izara (ii) Marvel Tupe (iii) Marvel Cerise (iv) Marvel Chaitanya (v) Marvel Vimannagar (vi) Marvel Ideal Spaciof (vii) Marvel Brisa (viii) Marvel Cetrine (ix) Marvel Arista (x) Marvel Merlof t (xi) Marvel Zephyr, etc.

9.21.7. Marvel Precast Structures India LLP and Marvel OF ra Residences LLP, are twof grof up entities whof se fnancial statements and assets were No of t disclof sed. The Petitiof ner states that this is signifcant because bof th of them disclof se substantial current assets in their fnancial statements. In the case of Marvel OF ra Residences LLP, the current assets amof unt tof Rs. 59,99,94,667/- and the capital accof unt refects an amof unt of Rs. 18,86,91,887/-. This entity appears tof have given a shof rt-term lof an tof aNo of ther grof up entity. The Petitiof ner states that these details have been withheld in the earlier disclof sures because it wof uld shof w the capacity of Respof ndent No of . 4 and its related entities tof satis y the Recof very Certifcate, which it is of bstructing.

OF RDER PASSED BY THE SUPREME COF URT OF F INDIA :

10. OF n 28th February, 2021, a ter this Cof urt had granted three of ppof

rtunities tof Respof ndent No of . 4 tof ully cof mply with the OF rders of Disclof sure dated 6th March, 2020 and 14th January, 2021, and the Respof ndent No of . 4 had fled three Disclof sure Afdavits, Respof ndent No of . 4 challenged these OF rders by fling SLP (C) No of . 2122/2021 and SLP (C) No of . 2123/2021 be of re the Supreme Cof urt.

10.1. By an OF rder dated 12th February, 2021, the Supreme Cof urt while uphof lding the approf ach adof pted by this Cof urt, dismissed the said SLPs. By the said OF rder, the Supreme Cof urt held as under:

Cof urt tof ensure that in of ne manner of r the of ther the petitiof ner hof No of urs the decree which has been passed against him. The Special Leave Petitiof n is dismissed.

Pending applicatiof ns stand dispof sed of f."

(Emphasis supplied)

It is relevant tof No of te here that Respof ndent No of . 4 never served a cof py of the said SLPs upof n the Petitiof ner. The Petitiof ner had No of t fled a caveat be of re the Supreme Cof urt and was there of re No of t aware of the fling of the SLP of r the OF rder. Further Respof ndent No of . 4 alsof suppressed the a of resaid OF rder dated 12th February, 2021 rof m this Cof urt, despite the matter having been heard a ter that. This Cof urt learnt of the a of resaid OF rder of nly upof n receiving a cof py of it rof m the Supreme Cof urt Registry. In act, Advof cate Shri Amit Gharte representing Respof ndent No of . 4 be of re us in of rmed us that even he was No of t aware of the SLP's being fled by Respof ndent No of . 4 be of re the Supreme Cof urt, since the same were fled by engaging sof me of ther Advof cates.

SUBMISSIOF NS OF F THE PARTIES:

ISSUE NO OF . 1 : AS SET OF UT IN PARAGRAPH 7.1.:

11. Shri Sharan Jagtiani, Learned Seniof r Advof cate representing the Petitiof ner has made the fof llof wing submissiof ns :

11.1. That a ter the OF rder dated 6th March, 2020 was passed, this Cof urt granted multiple of ppof rtunities tof Respof ndent No of . 4 tof cof mply with its OF rders. Respof ndent No of . 4 No of t of nly ailed tof cof mply with the said OF rders but alsof made alse and incof rrect statements in the said of ur Disclof sure Afdavits in of rder tof mislead this Cof urt thereby of bstructing the administratiof n of justice and delaying the hearing of this Writ Petitiof n of r grant of urgent interim relie s.

11.2. That the of llof wing instances clearly shof w that Respof ndent No of . 4 has disof beyed the OF rders passed by this Cof urt and made alse and incof rrect statements during the hearing of the present Writ Petitiof n, tof mislead the Cof urt:

11.2.1. In its 1st Disclof sure Afdavit, despite this Cof urt specifcally directing Respof ndent No of . 4 tof disclof se all assets of Respof ndent No of . 4 and its grof up entities, Respof ndent No of . 4 of nly disclof sed details in respect of its prof ject 'Marvea Ribera'. Respof ndent No of . 4 kNo of wing ully well that this was No of t the of nly prof ject and/of r asset of Respof ndent No of . 4 and its grof up entities, made a alse statement that of ther than the said prof ject Marvel Ribera, it had No of of ther assets. He submitted that fling of three mof re Afdavits therea ter by Respof ndent No of . 4 itsel shof ws that the a of resaid statement was alse and was made will ully and deliberately in of rder tof mislead this Cof urt at the frst instance.

11.2.2. In the 4th Disclof sure Afdavit, Respof ndent No of . 4 has sof ught tof justi y its 1st Disclof sure Afdavit by stating that it did No of t disclof se of ther assets because it was under the impressiof n that disclof sure in respect of the prof ject Marvel Ribera and the assets in the said prof ject wof uld be "sufcient" sof as tof cof mply with the OF rder passed by this Cof urt. The 1st Disclof sure Afdavit clearly stated that of ut of 27 fats, 11 had been sof ld and 16 unsof ld units were mof rtgaged. Further it was alsof stated in the said Afdavit that a sum of Rs. 18,54,05,681/- was receivable rof m the purchasers of the sof ld units, but when at the hearing of n 14th January, 2021, this Cof urt enquired whether the said amof unt had been received, Respof ndent No of . 4's answer was in the negative. In the a of resaid circumstances, Respof ndent No of . 4 cof uld never have been under the belie that the assets disclof sed in the 1st Disclof sure were sufcient.

11.2.3. The frst three Afdavits fled by Respof ndent No of . 4 of nly disclof sed limited entities and prof jects and sof ught tof represent tof this Cof urt that these were the of nly entities and prof jects of Respof ndent No of . 4 and its grof up entities. Hof wever, a ter the Petitiof ner pof inted of ut in its Afdavit dated 9th February, 2021 that Respof ndent No of . 4 had No of t disclof sed variof us of ther entities and prof jects, Respof ndent No of . 4 in the 4th Disclof sure Afdavit admitted that it had disclof sed of nly "majof r" entities and prof jects of Respof ndent No of . 4 and its grof up entities as disclof sure with respect tof of thers was "irrelevant".

11.2.4. In the 4th Disclof sure Afdavit, Respof ndent No of . 4 has stated that it did No of t disclof se assets of prof jects Marvel OF rial, Marvel Fria, Marvel Piazza as the same are "cof mpleted" prof jects. The said statement is belied by the act that Respof ndent No of . 4 of n its of fcial website has represented that these three prof jects, are 'of ngof ing' prof jects of Respof ndent No of . 4.

11.2.5. In the 4th Disclof sure Afdavit, Respof ndent No of . 4 has stated that it did No of t disclof se the grof up entities Marvel Precast Structures India LLP and Marvel OF ra Residences LLP as they are No of t of peratiof nal. This statement of Respof ndent No of . 4 is belied by the fnancial statements of these entities prof duced by the Petitiof ner which clearly shof w that in the Financial Year 2019-2020 of ne of the LLP's has advanced lof an amof unts of approf ximately

Rs. 60 crof res tof its related parties. That it again begs the questiof n hof w these entities had mof ney tof advance such huge lof ans i they were No of t of peratiof nal.

11.3. That these acts of Respof ndent No of . 4 and of Shri Jhavar, in repeatedly disof beying the a of resaid OF rders and will ully breaching the undertakings given by it tof this Cof urt, amof unts tof civil cof ntempt, of r which the Petitiof ner may initiate separate prof ceedings. In additiof n theretof , the acts of Respof ndent No of . 4 and Shri Jhavar in repeatedly making alse and incof rrect statements of n of ath be of re this Cof urt, in of rder tof inter ere with and of bstruct the administratiof n of justice, alsof amof unts tof cof ntempt in ace of the cof urt, as well as perjury. In view thereof , he submitted that Respof ndent No of . 4 and Shri Jhavar of ught tof be held guilty of cof ntempt and detained in custof dy.

11.4. That the abof ve submissiof ns are of rtifed by the Judgment in Cipla Limited vs. Mr. Krishna Dushyant Rana 2016 SCC OF nLine Bof m 5895 - Paras 1 tof 22 and 27 wherein a Learned Single Judge of this Cof urt of rdered civil imprisof nment of the De endant of r a periof d of three mof nths in view of the De endant's deliberate, will ul, cof ntumaciof us cof nduct in disof beying the OF rders passed by the Cof urt, by making alse and incof rrect statements of n of ath, thereby of bstructing the administratiof n of justice. That like the acts of the present case, in Cipla Limited, supra, the de endant being a Judgment Debtof r had been directed by this Cof urt tof disclof se of n of ath all his assets (mof vable and immof vable). The de endant fled of ur successive Afdavits tof disclof se its assets and in each of the Afdavits, suppressed its assets and did No of t prof vide a cof mplete disclof sure. In view thereof , this Cof urt held that as the de endant had made alse and incof rrect statements tof the Cof urt, the de endant was guilty of having cof mmitted grave and seriof us act of cof ntempt of this Cof urt. This OF rder and Judgment was challenged by the De endant be of re the Divisiof n Bench of this Cof urt in Cof mmercial Appeal No of . 18 of 2016. The Divisiof n Bench by its OF rder dated 19th December 2017 Mr. Krishna Dushyant Rana vs. Cipla Limited (Cof mmercial Appeal No of . 18 of 2016) - Rel Paras 24, 29 tof 37 dismissed the Appeal and upheld the Judgment passed by the Single Judge. The De endant then challenged the said OF rder dated 19th December 2017 by fling SLP (Civil) No of . 3872 of 2018 be of re the Supreme Cof urt. The Supreme Cof urt alsof dismissed the said SLP of n 19th February, 2018Mr. Krishna Dushyant Rana vs. Cipla Limited - SLP No of . 3872 of 2018 and upheld the OF rder passed by the Single Judge and the Appeal Cof urt.

12. Shri Amit Gharte, Learned Advof cate representing Respof ndent No of . 4 made the fof llof wing submissiof ns :

12.1. That the Petitiof ner's cof ntentiof n that Respof ndent No of . 4 has No of t disclof sed its assets and of its grof up entities is incof rrect.

12.2. That when the said OF rder dated 6th March, 2020 was passed, Respof ndent No of . 4 immediately fled the 1st Disclof sure Afdavit disclof sing the assets in respect of the prof ject 'Marvel Ribera'.

12.3. That the said Afdavit was fled under a bof na fde belie that as the Mr. Krishna Dushyant Rana vs. Cipla Limited (Cof mmercial Appeal No of . 18 of 2016) - Rel Paras 24, 29 tof 37 Mr. Krishna Dushyant Rana vs. Cipla Limited - SLP No of . 3872 of 2018 subject amof unt invof lved in the present Writ Petitiof n was approf ximately Rs. 14,00,00,000/, the said Disclof sure that Respof ndent No of . 4 is tof receive approf ximately Rs. 18,00,00,000/- in the said Prof ject rof m 11 sof ld fats, wof uld be a sufcient disclof sure of r the amof unt invof lved in the present Writ Petitiof n.

12.4. That of n the next of ccasiof n i.e. 14th January, 2021, when it was in of rmed that a detailed disclof sure needs tof be fled by Respof ndent No of . 4, Respof ndent No of . 4 immediately fled its 2nd Disclof sure Afdavit of n 20th January, 2021, which included the chart as tof the number of prof jects and the lof ans of utstanding against the Respof ndent No of . 4 and its grof up entities.

12.5. That therea ter vide the 3rd and 4th Disclof sure Afdavits, the Respof ndent No of . 4 has in detail disclof sed the assets, liabilities, fats sof ld and unsof ld, bank details of Respof ndent No of . 4 and its grof up entities.

12.6. That there of re Respof ndent No of . 4 has tof the best of its ability made every efof rt tof cof mply with the OF rders of Disclof sures and there of re canNo of t be held guilty of cof ntempt.

12.7. That it is No of t the case of any party that the said disclof sures fled of n recof rd are alse of r misrepresenting.

12.8. That Respof ndent No of . 4 has No of t cof mmitted any 'wil ul' breach of any undertaking of r statement given tof this Cof urt and there of re No of cof ntempt actiof n can be initiated against Respof ndent No of . 4.

12.9. That the Supreme Cof urt has in its Judgment in the case of Anil Sarkar vs. Hirak Ghof sh AIR 2002 SC 1405, inter aaia held that a mere disof bedience of an of rder may No of t be sufcient tof amof unt tof a civil cof ntempt within the meaning of Sectiof n 2(b) of the Cof ntempt of Cof urts Act, 1971. The element of willingness is an indispensable requirement tof bring hof me the charge within the meaning of the Cof ntempt Act.

12.10. That i the Petitiof ner is aggrieved by No of n-disclof sure of cof mplete assets of f Respof ndent No of . 4, which accof rding tof the Respof ndent No of . 4 has been disclof sed, the Petitiof ner instead of seeking a cof ntempt actiof n, of ught tof have sof ught of r en of rcement of the said OF rder. That in the case of Kanvar Singh Saini vs. High Cof urt of f Delhi (2012)4 SCC 307 - Para 18 the Supreme Cof urt has held that of r en of rcement of the interim and fnal of rders / decree of cof urts, including undertaking given tof the Cof urt, a prof per and advisable frst mof de of r en of rcement of the of rder is tof fle an applicatiof n seeking en of rcement of interim of rder / undertaking given tof the Cof urt, rather than fling a cof ntempt prof ceeding seeking cof ntempt actiof n. When the matters relate tof in ringement of a decree of r decretal of rder embof dying rights between the parties, cof ntempt jurisdictiof n canNo of t be invof ked merely because the of ther remedy wof uld take time; urther the cof ntempt jurisdictiof n is attracted when disof bedience of Cof urt's of rder of r undertaking tof the Cof urt is wil ul and cof ntumaciof us (see part C of the Written Arguments of Respof ndent No of . 4).

12.11. That the Supreme Cof urt in Fof of d Cof rpof ratiof n of f India vs. Sukhadeof Prasad (2009) 5 SCC 665 , has held that cof ntempt actiof n canNo of t be used of r en of rcement of mof ney decree of r directiof ns/of rder of r payment of mof ney. That the said principles are alsof applicable in the acts of the present case and under the garb of cof ntempt prof ceedings, the en of rcement of mof ney decree canNo of t be of rdered.

12.12. That the Petitiof ner has ailed tof fle any prof ceedings including cof ntempt prof ceedings against Respof ndent No of . 4. That neither have the cof ntempt prof ceedings been pre erred, No of r this Cof urt has taken suof mof tu cof gnizance of any such cof ntempt. Further, No of cof ntempt No of tice has been issued of r a shof w cause No of tice priof r tof such cof ntempt No of tice has been issued tof Respof ndent No of . 4 stating the charges and/ of r cof ntentiof ns which the present Respof ndent No of . 4 needs tof answer.

12.13. That Respof ndent No of . 4 is unaware of n what grof unds/charges the Petitiof ner is seeking cof ntempt actiof n against them. That withof ut anything of n recof rd / of n afdavit, as tof under what circumstances and of n what grof unds the Petitiof ner is seeking cof ntempt actiof n against Respof ndent No of . 4, the Petitiof ner canNo of t merely rely upof n a Judgment passed in Cipla Ltd. (supra) tof seek cof ntempt actiof n. In any event the Judgment in Cipaa Ltd. arises of ut of a Summary Suit, which was pending of n the OF riginal Side of this Cof urt and the Single Judge was exercising the pof wers of the Civil Cof urt. Further in paragraph 12, the Single Judge has specifcally held that the De endant had fled a alse afdavit and made alse statement be of re the Cof urt, which resulted in the cof ntempt actiof n. That this Cof urt is No of t exercising jurisdictiof n of a civil cof urt in its of riginal jurisdictiof n and the present prof ceedings are under Article 226 and there of re No of cof ntempt prof ceedings will lie.

12.14. That Chapter XXXIV of the Bof mbay High Cof urt Rules, Appellate Side, regulates the prof cedure of r initiating cof ntempt actiof n under Article 215 of the Cof nstitutiof n of India and the Cof ntempt of Cof urts Act, 1971. Rules 8, 9, 10, 22 and 24 of the said Rules makes it clear that the relie s sof ught by the Petitiof ner of r hof lding Respof ndent No of . 4 guilty of cof ntempt canNo of t be granted inter aaia unless the Petitiof ner fles a separate applicatiof n of r disof bedience of of rder by Respof ndent No of . 4; a No of tice is issued tof the cof ntemNo of r by this Cof urt calling upof n the cof ntemNo of r tof shof w cause why No of actiof n shof uld be taken against him and Respof ndent No of . 4 is granted 14 days tof reply tof such No of tice.

13. Shri Jagtiani, in rejof inder, submits that the a of resaid Judgment in Anil Sarkar (supra) relied upof n by Respof ndent No of . 4 dof es No of t suppof rt the Respof ndent No of . 4's cof ntentiof n, as the questiof n whether the disof bedience of the of rder was will ul of r No of t is required tof be ascertained of n the basis of acts of each case. He alsof submitted that by the Judgments in the case of Kanwar Singh (supra) and Fof of d Cof rpof ratiof n of f India (supra), the Supreme Cof urt held that cof ntempt jurisdictiof n canNo of t be used of r en of rcement of decree passed in a civil suit as the persof n had initiated prof ceedings under OF rder 39 Rule 2A of the Cof de of Civil Prof cedure of r breach of a decree, instead of fling executiof n prof ceedings under OF rder 21 Rule 32 of CPC. He submitted that the said ratiof is No of t applicable tof the acts in the present case as the Petitiof ner is No of t seeking cof ntempt of r No of n-cof mpliance of the decree at all.

13.1. Shri Jagtiani alsof submitted that the ulfllment of Rules 8, 10, 22 and 24 of f the Appellate Side Rules, as relied upof n by Respof ndent No of . 4 are No of t necessary when the cof ntempt is cof mmitted in the ace of the Cof urt. Shri Jagtiani relied upof n Sectiof n 14(1) of the Cof ntempt Act read with Rule 4 of the Appellate Side Rules which deal with cof ntempt in the ace of the cof urt.

ISSUE NO OF . 2 AS SET OF UT IN PARAGRAPH 7.2

14. Shri Sharan Jagtiani, Learned Seniof r Advof cate representing the Petitiof ner has made the fof llof wing submissiof ns :

14.1. That in the present case, the Cof llectof r and Tahsildar have cof mpletely ailed tof discharge their statutof ry duties and exercise pof wers cof n erred of n them under the Maharashtra Land Revenue Cof de, 1966 ("the Cof de") tof execute the said Recof very Certifcate. That despite receiving the directiof n rof m RERA of n 15th April, 2019 tof execute the Recof very Certifcate, the Tahsildar sent demand No of tices tof Respof ndent No of . 4 of nly of n 11th September, 2019 and then of n 10th January, 2021, which Respof ndent No of . 4 ailed tof cof mply with. Therea ter, the Tahsildar carried of ut a search of f Respof ndent No of . 4's prof perties rof m the prof perty cards available with her. Accof rding tof the Tahsildar, the Prof perty Cards disclof sed names of certain prof perties in the name of Marvel Imperial Cof -of perative Hof using Sof ciety Limited, Marvel Crest Cof ndof minium, etc. Hof wever, as the names of n these Prof perty Cards were No of t the same as that of Respof ndent No of . 4, i.e. 'Marvel Sigma Hof mes Pvt. Ltd.', she was unable tof execute the said Recof very Certifcate. That the Prof perty Card annexed, itsel shof ws that Marvel Crest Cof ndof minium is of wned by Respof ndent No of . 4, which the Tahsildar ailed tof cof nsider. That instead of exercising the pof wers cof n erred of n revenue of fcers under the Cof de tof execute a Recof very Certifcate, the Tahsildar vide her Letter dated 11th March, 2020 in of rmed RERA that as she cof uld No of t lof cate the prof perties of Respof ndent No of . 4, she was unable tof execute the Recof very Certifcate.

Thus, it is clear that there has been cof mplete inactiof n by the Cof llectof r and the Tahsildar in cof mplying with their statutof ry of bligatiof ns.

14.2. That the events that have transpired during the hearing of the present Writ Petitiof n, clearly shof w that Respof ndent No of . 4 has No of intentiof n of cof mplying with the said Recof very Certifcate and/of r of paying the said Decretal Amof unt. That Respof ndent No of . 4 has made every attempt tof delay the payment of the said Decretal Amof unt tof the Petitiof ner. Initially, Respof ndent No of . 4 did No of t cof mply with the demand No of tices of the Tahsildar. Therea ter, of nce the present Writ Petitiof n was fled, Respof ndent No of . 4 in of rder tof delay the hearing of the present Writ Petitiof n did No of t prof vide cof mplete disclof sure of its assets and that of its grof up entities, despite repeated of rders passed by this Cof urt.

14.3. That in the variof us Disclof sure Afdavits fled by Respof ndent No of . 4, Respof ndent No of . 4 has sof ught tof represent tof this Cof urt that it was debt ridden and had No of means tof pay the dues of the Petitiof ner. Hof wever, rof m a perusal of these Disclof sure Afdavits, the Petitiof ner has been able tof ascertain that at least an amof unt of f Rs. 2,90,15,211.69/- (Rupees Twof Cof res Ninety Lakhs Fi teen Thof usand Twof Hundred Eleven and Sixty-Nine Paisa) is lying in the bank accof unts of Respof ndent No of . 4 and its grof up entities which have No of charge of n it. There are variof us of ther bank accof unts as well, which have No of t been disclof sed by Respof ndent No of . 4 and which may alsof have mof nies lying therein, which are ree of any charge / lien. That as per the list of f sof ld and unsof ld units in variof us prof jects disclof sed by Respof ndent No of . 4, there are 192 unsof ld units in the prof jects of wned by Respof ndent No of . 4 and approf ximately 449 unsof ld units in the variof us prof jects of wned by the grof up entities of Respof ndent No of . 4. Further, grof up entities of Respof ndent No of . 4 has been advancing mof nies tof the tune of Rs.60 crof res tof its related entities, which clearly shof w that Respof ndent No of . 4 and its grof up entities have the required unds tof pay the Decretal Amof unt but is with malafde intentiof n avof iding tof pay the same. In view thereof , he submitted that Respof ndent No of . 4 despite having the means tof pay the said Decretal Amof unt was re using tof pay the same tof the Petitiof ner.

14.4. That the Supreme Cof urt by its OF rder dated 12th February, 2021 passed in SLP (C) No of . 2122-2123 of 2021, has already upheld the approf ach of this Cof urt in ensuring that in of ne manner of r the of ther the Respof ndent No of . 4 hof No of urs the decree which has been passed against it. That in view of the a of resaid OF rder, the interim relie s as sof ught by the Petitiof ner of ught tof be granted.

14.5. That prayer clauses b (ii) and b (iii) of ught tof be granted. That the Petitiof ner apprehends that i the a of resaid interim relie s are No of t granted, Respof ndent No of . 4 may deal with all its assets in of rder tof deprive the Petitiof ner of its undispute dues. That the ratiof laid dof wn by the Supreme Cof urt in the case of Deof raj vs. State of f Maharashtra 2004 4 SCC 697 - Paras 10 tof 13 in suppof rt of the necessity of r grant of interim relie s in a Writ Petitiof n keeping in mind the ends of justice, is squarely applicable tof the acts and circumstances of the present case, mof re particularly tof the cof nduct of Respof ndent No of . 4 in the present case.

14.6. That in exercise of its inherent pof wers under Article 226 of f the Cof nstitutiof n of f India, this Cof urt has the jurisdictiof n tof pass of rders and/of r directiof ns against a private persof n and in the present case against Respof ndent No of . 4, which is a Private Limited Cof mpany. That the Allahabad High Cof urt in the case of Shri Ram Singh & Anr. vs. Special Judge E.C. Act & OF rs. 1993 SCC OF nLine All 38 - Paras 10 tof 18 has held that a High Cof urt, while being seized of a writ petitiof n under Article 226 of the Cof nstitutiof n, can alsof pass any of rder including an of rder in the nature of an injunctiof n against a private persof n in exercise of its inherent pof wers. That while arriving at the a of resaid fnding, the Allahabad High Cof urt has relied upof n the Judgment of the Supreme Cof urt in Dwarka Nath vs. Incof me-tax OF fcer AIR 1966 SC 81, wherein the Supreme Cof urt, while cof nsidering the scof pe and ambit of the pof wers of the High Cof urt under Article 226 of the Cof nstitutiof n, held that the High Cof urt while exercising its writ jurisdictiof n can issue any of rder of r directiof n, which it cof nsiders necessary tof be issued.

15. Shri Amit Gharte, Learned Advof cate representing Respof ndent No of . 4, has made the fof llof wing submissiof ns :

15.1. That Respof ndent No of . 4 is a Private Limited Cof mpany registered under the Cof mpanies Act, 1956 and dof es No of t per of rm a public unctiof n and urther dof es No of t discharge any public duty and there of re Article 226 of the Cof nstitutiof n of India and the Writ 0 Mandamus and/ of r any of ther writ of r of rder of r directiof ns canNo of t be invof ked of r passed against Respof ndent No of . 4.

15.2. That Respof ndent No of . 4 is gof verned by RERA and there of re the grievance of r actiof n, i any, against Respof ndent No of . 4 has tof be within the rame wof rk of RERA.

15.3. The Supreme Cof urt, in its Judgment in the case of VST Industries Limited vs. VST Industries Wof rkers Uniof n and aNo of ther10, has held that Article 226 can be invof ked of nly when the authof rity of r persof n per of rms a public unctiof n, of r discharges a public duty and No of t against a private persof n.

15.4. That the Judgment in Shri Ram Singh (supra) relied upof n by the Petitiof ner is No of t applicable tof the acts of the present case as the same dof es No of t specifcally deal with issuance of the Writ of Mandamus against a private limited cof mpany.

15.5. That interim relie s sof ught by the Petitiof ner will severely afect the prof jects of the Marvel Grof up and that the Marvel Grof up and Respof ndent No of . 4 wof uld be agreeable tof the Petitiof ner selling of f the Flat agreed tof be purchased by the Petitiof ner and tof retain the sale prof ceeds in satis actiof n of the Recof very Certifcate.

16. Shri Jagtiani has distinguished the Judgment relied upof n by the Respof ndent No of . 4 in VST Industries (supra) and submitted that the said Judgment relied upof n by the Respof ndent No of . 4 has No of applicatiof n in a situatiof n where the fnal relie is undof ubtedly directed against a statutof ry authof rity that is a part of the 'State' and in aid of that, interim relie is directed against a private party that has beneftted rof m the inactiof n of the statutof ry authof rity. He submitted that in the present case the Petitiof ner has No of t sof ught issuance of a Writ against the Respof ndent No of . 4, which is a Private Limited Cof mpany.

16.1. Withof ut prejudice tof the a of resaid, Shri Jagtiani submitted that the said Judgment in VST Industries (supra) dof es No of t cof nsider the judgment of the Supreme Cof urt in Dwarka Nath (supra) and is there of re per incuriam, of r at any rate, canNo of t be relied upof n tof de eat the grant of interim relie s.

FINDINGS AND COF NCLUSIOF NS :

ISSUE NO OF . 1 : "Whether Respof ndent No of . 4 and its Directof r Shri Jhavar have inter ered with the administratiof n of justice by fling alse and incof rrect afdavits of disclof sure and by alsof viof lating and breaching variof us of rders of this Cof urt?; I sof , the cof nsequences of such breach?"

17.1. The liability of the Respof ndent No of . 4 under the Recof very Certifcate is No of t in dispute. The Recof very Certifcate has attained fnality. The amof unt of wed tof the Petitiof ner is a repayment of the amof unt already paid by the Petitiof ner tof Respof ndent No of . 4 of r purchase of a fat in its prof ject, and interest of n that amof unt as of rdered by the Adjudicating OF fcer. Thus, the OF rders of Disclof sure against Respof ndent No of . 4 are a step-in aid of the recof very of this amof unt, which is sof ught of r in the abof ve Petitiof n fled against Respof ndent No of s. 2 and 3 of r ailure tof discharge their statutof ry duties in relating tof realising the amof unt due under the Recof very Certifcate.

17.2. Having set of ut and cof nsidered the variof us OF rders and the Afdavits of Disclof sure fled by Respof ndent No of . 4, as alsof the Afdavit of the Petitiof ner cof mmenting of n the lack of disclof sure, and having alsof cof nsidered the submissiof ns of bof th sides of n this aspect, we have No of hesitatiof n in cof ncluding that Respof ndent No of . 4 and its Directof r, Shri Jhavar, have wil ully and deliberately breached the Cof urts OF rders. No of t of nly is this a case of wil ul disof bedience of of ur OF rders but in the acts of this case, such wil ul No of n-cof mpliance and alse and incof mplete afdavits alsof tend tof inter ere with the administratiof n of justice, as these disclof sures are necessary tof enable us tof pass efective of rders in the Writ Petitiof n.

17.3. The act that Respof ndent No of . 4 has fled of ur Afdavits of Disclof sure, all of them in purpof rted cof mpliance of this Cof urt's OF rder dated 6th March, 2020 (and reiterated by the OF rder of 14th January, 2021), itsel indicates that the frst three Afdavits, even accof rding tof Respof ndent No of . 4, were inadequate and No of n-cof mpliant. What is relevant tof No of te is the casual manner, in which these Afdavits have been fled in brazen disregard tof what was stated in the OF rders. Fof r instance, in the 1st Disclof sure Afdavit, Respof ndent No of . 4 has of nly given details of of ne of the prof jects of Respof ndent No of . 4, i.e. the subject prof ject 'Marvel Ribera'. The purpof rted disclof sure made qua the subject prof ject was that of ut of the tof tal 27 fats, 11 fats have been sof ld and an amof unt of Rs. 18,54,05,681 was receivable tof wards sale cof nsideratiof n of the said fats. The remaining 16 fats are unsof ld, but were mof rtgaged tof ICICI Hof me Finance Ltd., under a Mof rtgage Deed dated 29th May, 2017. Further in paragraph 7 of the 1st Disclof sure Afdavit, Respof ndent No of . 4 made a statement that, "Marvel Sigma Hof mes Private Limited apart rof m abof ve has No of of ther prof perty". Details of of ther prof jects of Respof ndent No of . 4 of r of any of the grof up entities were No of t disclof sed. In the 4th Disclof sure Afdavit, at paragraph 2, there is an attempt tof justi y this by saying that details of of ther prof jects were No of t disclof sed since Respof ndent No of . 4 was under the impressiof n that the amof unt of assets including receivables disclof sed by Respof ndent No of . 4 in the 1st Disclof sure Afdavit wof uld be sufcient tof cof mply with the Cof urt's OF rder dated 6th March, 2020 (wrof ngly re erred tof as 4th March, 2020).

17.4. The abof ve stand of Respof ndent No of . 4 is belied by the act that a ter the 1st Disclof sure Afdavit was fled, in respof nse tof the Cof urt's query as tof realisatiof n of the receivable of Rs. 18,54,05,681/-, Respof ndent No of . 4 tof ld the Cof urt that this amof unt has No of t been received and No of indicatiof n was given as tof when this amof unt wof uld in act be received. In act, No of particulars of this substantial amof unt of receivables were disclof sed in any of the later Afdavits especially when the 4th and last Disclof sure Afdavit was fled of n 12th February, 2021 and the 1st Disclof sure Afdavit was fled of n 12th March, 2020. Despite this, Respof ndent No of . 4 seeks tof justi y its breach in the 1st Disclof sure Afdavit by suggesting that what was disclof sed was sufcient. That apart, the determinatiof n of whether a disclof sure is sufcient of r No of t, is No of t tof be made by the party whof is of rdered tof make disclof sures by the Cof urt when the terms of the OF rder seeking disclof sure are clear and categof rical. Thus, the cof nduct of wil ul breach and of bstructiof n cof mmenced with the 1st Disclof sure Afdavit which was sof ught tof be justifed by the Respof ndent No of . 4 even a ter abof ut a year, by which time the Respof ndent No of . 4 was of bviof usly aware that the Cof urt was No of t satisfed with the disclof sures made.

17.5. The cof nduct of Respof ndent No of . 4 in No of t taking respof nsibility tof ensure ull cof mpliance with of ur OF rders stof of d expof sed rof m the statement made in the 3rd Disclof sure Afdavit namely, "I say that since the Respof ndent No of . 4 and its of ther cof mpanies are vast, there might be sof me of f the assets/ prof jects, which inadvertentay are No of t stated in the Afdavits, the Respof ndent No of . 4 crave leave of f Hof n'ble Cof urt tof put the said prof perties of n afdavits if the same is pof inted of ut tof us. " (Emphasis

Supplied)

17.6. We are there of re of the view that such an Afdavit is unacceptable and a clear indicatiof n that Respof ndent No of . 4 had No of intentiof n tof make seriof us efof rts tof cof mply with of ur OF rders as No of ted abof ve. In act, as the 4th Disclof sure Afdavit demof nstrates, the reasof n of r No of t making ull disclof sures in the earlier Afdavits is No of t because Respof ndent No of . 4 of r its Directof r cof uld No of t access details of Respof ndent No of . 4's prof jects and assets of thof se of its grof up entities, but because Respof ndent No of . 4 and Shri Jhavar of nly chof se tof make disclof sure of assets of "majof r" entities and prof jects that they regarded as relevant. This is in cof mplete breach of of ur OF rders, which are clear and unqualifed qua the disclof sure that was required tof be made.

17.7. We are alsof in agreement with the submissiof n of the Petitiof ner that the alse and incof mplete disclof sures up tof the fling of the 3rd Disclof sure Afdavit have been highlighted in the Petitiof ner's Afdavit dated 9th February, 2021. The cof ntents and submissiof ns in relatiof n tof this Afdavit of 9th February, 2021 have been set of ut and discussed in the of regof ing paragraphs and the same are there of re No of t reprof duced herein. Hof wever, it is pertinent tof No of te that up tof the fling of the 3rd Disclof sure Afdavit, the disclof sures of variof us grof up entities had No of t been made. Sof me of thof se grof up entities appear tof be develof ping of ngof ing prof jects. In of ther instances, they have cof mpleted prof jects, and wof uld there of re in all prof bability have unsof ld inventof ry. OF ther grof up entities, such as Marvel Precast Structures LLP and Marvel OF ra Residences LLP, appear tof have assets in the of rm of receivables of lof ans advanced by them. In the case of Marvel OF ra Residences, the amof unt lof aned by it is substantial, being abof ut Rs. 59.99 crof res. This disclof sure is relevant since it indicates that the grof up entities have unds and resof urces of r access tof unds and resof urces which are being used tof fnance of ther grof up entities rather than the Marvel Grof up discharging its liability tof persof ns such as the Petitiof ner. At this stage, hof wever, what is mof re impof rtant tof No of te is the act that these disclof sures were never made by the Respof ndent No of . 4 and were brof ught tof light by the Petitiof ner in its Afdavit of 9th February, 2021.

17.8. The of ther impof rtant aspect of the No of n-disclof sure is what is set of ut in paragraphs 26 and 27 of the Petitiof ner's Afdavit dated 9th February, 2021. This is in relatiof n tof variof us prof jects that have No of t been disclof sed, including thof se of the seven entities in respect of which sof me disclof sure was made by Respof ndent No of . 4. The details of these prof jects have already been listed abof ve. The Petitiof ner has relied upof n the Website of the Marvel Grof up being available at the url: www.marvelrealtof rs.cof m. The Petitiof ner has then alsof placed of n recof rd the entities and prof jects in relatiof n tof which No of bank accof unt details and disclof sures have been made.

17.9. Respof ndent No of . 4 has attempted tof justi y its No of n-disclof sures in its 4th Disclof sure Afdavit dated 12th February, 2021, the cof ntents of which have alsof been set of ut abof ve. In paragraph 3, Respof ndent No of . 4 has stated that the No of n-disclof sure of bank accof unt details of variof us prof jects is because mof st of the prof jects are cof mplete. A list of thof se suppof sedly cof mpleted prof jects is then given. The act that a prof ject is cof mplete is No of reasof n tof No of t disclof se it. It is pof ssible that even of r a cof mplete prof ject, there may be unsof ld inventof ry and the bank accof unts maintained wof uld be a relevant part of any disclof sure.

17.10. Mof reof ver, the Petitiof ner has cof rrectly pof inted of ut by relying upof n the Website of the Marvel Grof up that certain prof jects namely, Marvel OF rial, Marvel Fria, Marvel Piazza and Marvel Selva Ridge, are in act of ngof ing prof jects and No of t 'cof mplete'. The relevant extracts of the Website of the Respof ndent No of . 4 / the Marvel grof up are reprof duced belof w :

Thus, it can be seen that the statements made by Respof ndent No of . 4 are clearly alse tof its of wn kNo of wledge and cof ntrary tof the in of rmatiof n that Respof ndent No of . 4 is prof viding tof the public at large in relatiof n tof its of wn business.

17.11. We are alsof of the view that the reasof n of r No of t fling disclof sure of the entities mentiof ned in paragraph 4 of the 4th Disclof sure Afdavit, by describing it as irrelevant, because disclof sure of majof r grof up entities had been made, is whof lly untenable. As has been No of ted abof ve, the Petitiof ner's respof nse tof this part of Respof ndent No of . 4's Afdavit alsof establishes that at least sof me of thof se entities had assets of r unsof ld inventof ry that were substantial and had tof be disclof sed. We reiterate that it is No of t of r Respof ndent No of . 4 tof unilaterally decide what is relevant and irrelevant in cof mplying with an OF rder of Disclof sure. As already pof inted of ut, the current assets (including receivables rof m the shof rt-term lof ans advanced) of Marvel OF ra Residences LLP are very substantial and clearly indicate that the Marvel Grof up has access tof unds, the sof urce of which is No of t being disclof sed. As No of ted in the cof ntext of the Petitiof ner's Afdavit of 9th February, 2021, even sof me of the of ther grof up entities have assets, which Respof ndent No of . 4 never disclof sed, because it described them as 'irrelevant' and of utside the categof ry of 'majof r' entities.

17.12. In view of what is set of ut abof ve, it wof uld be relevant tof set of ut the of bservatiof ns of a Single Judge of this Cof urt in Cipaa Limited, (supra).

"1. This is of ne of f thof se matters where the cof urt is anguished with the cof nduct of f the defendant whof despite being given repeated of ppof rtunity has repeateday abused the aiberty granted by the cof urt. It is rather unfof rtunate that the defendant, whof is prof babay in his 30's at aeast frof m the appearance, if aet of f tof cof ntinue with his behaviof ur, it wiaa erof de the faith that the pubaic have of n judiciary. The ruae of f aaw is premised upof n the faith repof sed by the peof pae in the justice deaivery system. Tof prevent erof siof n of f that faith cof ntemptuof us behaviof ur in the face of f the cof urt needs a strict treatment.

15. It shof uad be No of ted that in every successive afdavit defendant stated that he has discaof sed every asset, whereas the fact that he has been faing successive afdavits tof discaof se mof re and mof re assets and give particuaars thereof f shof ws the defendant was making faase statement in each of f the afdavits.

18. The defendant has made faase and incof rrect statements and has given undertaking tof this Cof urt that he has discaof sed every asset that he has, kNo of wing the same tof be faase and incof rrect. I am satisfed that the defendant is guiaty of f having cof mmitted grave and seriof us act of f cof ntempt of f this Cof urt. This cof urt gave a very aof ng rof pe tof the defendant tof cof me of ut caean, tof cof me of ut hof nest, tof cof me of ut truthfua and be transparent tof the cof urt but every of ppof rtunity given has been abused by the defendant. Repeateday faase statements have been made. The attempt is tof drag of n the matter sof that the defendant can get away. The cof nduct of f the defendant has scandaaized and aof wered the dignity of f the cof urt in the eyes of f the pubaic. The actiof n of f the defendant has been deaiberate, unaawfua and purpof seay dof ne with a view tof misaead the cof urt, by making deaiberate, faase, misaeading and incof rrect statements. In Advof cate Generaa, High Cof urt of f Karnataka v. Chidambara, the Karnataka High Cof urt has aasof head that any persof n whof makes a faase statement of n of ath wof uad be interferring with the administratiof n of f justice.

19. The Hof n'bae Supreme Cof urt of f India in the case of f Re: Bineet Kumar Sing v. UnkNo of wn has in caear terms head that a faase of r misaeading of r wrof ng statement deaiberateay and wiaafuaay made by a party tof the prof ceedings wof uad undof ubteday tantamof unt tof interference with the due cof urse of f judiciaa prof ceeding.

20. In the present case the cof nduct of f the defendant caearay brings tof aight the fact that the defendant has No of respect fof r this Cof urt. It caearay shof ws that the defendant feeas that making faase statements incauding undertaking tof the cof urts and thereafter breaching them of r No of t cof mpaying with the directiof ns given by the Cof urt wof uad have No of cof nsequences. The cof nduct of f the defendant is wiaafua, deaiberate and cof ntumaciof us. The Supreme Cof urt in Leeaa David v. State of f Maharashtra, in caear terms that the cof urt is No of t precauded frof m taking recof urse tof summary prof ceeding when a deaiberate cof ntempt takes paace and the punishment is given fof rthwith by the cof urt of n hof ading the cof ntumaciof us guiat of f cof ntempt and sending them tof prisof n.

21. In Jennisof n v. Baker it is stated the aaw shof uad No of t be seen tof sit by aimpay, whiae thof se whof defy it gof free, and thof se whof seek its prof tectiof n aof se hof pe. It is aasof settaed that a cof urse of f cof nduct which abuses

and makes a mof ckery of f the judiciaa prof cess and which thus extends its perniciof us infuence beyof nd the parties tof the actiof n and afects the interest of f the pubaic in the administratiof n of f justice needs a strict treatment.

22. The defendant has made a mof ckery of f the judiciaa prof cess. A decree has been passed against the defendant way back in 2011. The chamber summof ns was taken of ut fof r the reaiefs as mentiof ned abof ve. Even thof ugh the chamber summof ns was served upof n the defendant in September-2013, the defendant did No of t fae any repay untia June-2015. Even in the afdavit in repay, i.e., frst afdavit, he dof es No of t discaof se the entire truth abof ut aaa the assets in his name. Stiaa he states in the end of f the afdavit that he has discaof sed everything. When he was given aNo of ther chance tof expaain, he faes secof nd afdavit in which, again, he dof es No of t discaof se aaa the assets but stiaa makes a statement that he has discaof sed aaa mof vabae and immof vabae assets tof the cof urt. But when the annuaa returns which were annexed tof the secof nd afdavit was cof nsidered, it came tof aight that he had of ther assets in his name which have No of t been discaof sed in his afdavit. 3rd of ppof rtunity and 4th of ppof rtunity was given tof the defendant and he faed third afdavit dated 13.7.2015 and fof urth afdavit dated 8.9.2015 but stiaa chof se tof be ecof No of micaa with truth. When the cof urt asked him as tof hof w he paid the aof an taken fof r the twof skof da cars, the defendant's cof unsea of n instructiof ns frof m the defendant stated frst it was paid by cash and then it was changed tof of ne car in cash and of ther in cheque and again it was changed tof everything by cheque frof m Cof smof s bank, but there is No of mentiof n of f Cof smof s bank in any of f the dof cuments. At every stage whenever afdavits were faed, the defendant was made aware that he shof uad be truthfua in his afdavit. The defendant was aasof aware that he had tof discaof se aaa the assets and that is why in the afdavits he has been signing of f by saying 'I discaof sed my aaa mof vabae and immof vabae assets'. He had stated that right in the frst afdavit. If that was true, there wof uad No of t have been a need tof fae the secof nd afdavit in which aasof he has stated he has discaof sed aaa assets. But stiaa he had tof fae third and fof urth afdavit. Therefof re, the defendant knew aaa the time that he was making faase statement befof re the cof urt in the fof rm of f afdavits and in efect was making a mof ckery of f the judiciaa prof cess. The of ppof rtunity given tof fae further afdavit was misused and abused. The cof nduct of f the defendant was cof ntumaciof us because he cof uad No of t care. His demeaNo of r has been that he cof uad make faase statements, give undertakings tof the cof urt and breach them and it wof uad have No of cof nsequences. The actiof n of f the defendant has been deaiberate, wiaafua and purpof seay dof ne with a view tof cof mpaeteay misaead this cof urt. By making faase statement of n of ath, kNo of wing it tof be faase statement, the defendant has interfered with the administratiof n of f justice. In my view, if this cof nduct of f the defendant is No of t deaat with frmay, that may resuat in scandaaizing the institutiof n and aof wering its dignity in the eyes of f the pubaic.

25. In view of f the abof ve, I hof ad the defendant has disof beyed the of rders

made under OF rder XXI Ruae 41(2) of f the cof de of f civia prof cedure.

27. In view of f the deaiberate wiaafua cof ntumaciof us cof nduct of f the defendant and thereby of bstructing the administratiof n of f justice, the defendant deserves tof be detained in civia prisof n fof r three mof nths, the maximum periof d prof vided."

17.13. As mentiof ned abof ve, the OF rder and Judgment of the Single Judge was cof nfrmed by a Divisiof n Bench and therea ter by the Supreme Cof urt. Althof ugh, the Judgment in Cipaa (supra) was in the cof ntext of cof nsequences of No of n-disclof sure under OF rder 21 Rule 41(3) of the Cof de of Civil Prof cedure, 1908 ('CPC'), the Judgment itsel alsof relies upof n the general principles that are undamental tof the rule of law. The Judgment (which in turn re ers tof variof us of ther relevant decisiof ns of the Supreme Cof urt and of ther Cof urts) clearly suppof rts the prof pof sitiof n that such brazen and cof ntinuof us disregard of r of rders of the Cof urt including by making alse and misleading statements wof uld alsof of bstruct and inter ere with the administratiof n of justice. This entitles the Cof urt in a given case tof take recof urse tof summary prof ceedings when a deliberate cof ntempt takes place and the punishment is given of rthwith by the Cof urt.

17.14. We are in agreement with the views expressed in Cipaa (supra). We alsof fnd that the Judgments relied upof n by the Respof ndent No of . 4 in the case of Ania Sarkar (supra) is of No of relevance and renders No of assistance tof Respof ndent No of . 4. Fof r the reasof ns No of ted abof ve, we fnd that the breach and No of n-cof mpliance of of ur OF rders by Respof ndent No of . 4 was indeed wil ul and deliberate and did afect the administratiof n of justice. It was No of t a case where there was of ne in ractiof n and therea ter Respof ndent No of . 4 cof mplied with of ur OF rders.

17.15. The Judgments in Kanwar Singh Saini (supra) and Fof of d Cof rpof ratiof n of f India (supra) relied upof n by the Respof ndent No of . 4 tof cof ntend that the Cof urt of ught tof exercise discretiof n when exercising pof wers under the Cof ntempt of Cof urts Act and that the cof ntempt jurisdictiof n of ught No of t tof be used of r en of rcement of a decree where prof ceedings in en of rcement have been initiated, are equally of No of assistance tof the Respof ndent No of . 4.

17.16. Althof ugh these are No of t prof ceedings under the Cof ntempt of Cof urts Act, it wof uld be entirely within the jurisdictiof n and pof wer of this Cof urt under Article 226 of the Cof nstitutiof n of India, tof deal with the very seriof us issue of Respof ndent No of . 4's wil ul disof bedience and inter erence in the administratiof n of justice by deliberately No of t cof mplying with the variof us OF rders of Disclof sure made by this Cof urt rof m time tof time, and by fling alse and incof mplete Afdavits. As regards the exercise of discretiof n, be of re taking such actiof n, we may No of te that we have given several of ppof rtunities tof Respof ndent No of . 4 tof cof mply with of ur OF rders. There is alsof No of merit in the submissiof n that cof ntempt prof ceedings are No of t a substitute of r prof ceedings of r executiof n of r en of rcement. This submissiof n is of No of relevance in the present case, where the grievance of the Petitiof ner is that the statutof ry authof rities are taking No of steps tof ensure recof very of the amof unts under the Recof very Certifcate, because of which the present Petitiof n has been fled. The issue of Respof ndent No of . 4's wil ul breach and inter erence with the administratiof n of justice has cof me up because of its cof nduct, in the cof urse of this very Writ Petitiof n. Thus, there is absof lutely No of merit in the submissiof n of Respof ndent No of . 4 by relying of n the abof ve Judgments.

17.17. This takes us tof the questiof n as tof what actiof n of ught tof be taken against Respof ndent No of . 4 and its Directof r Shri Jhavar, whof , being an executive Directof r of Respof ndent No of . 4, has afrmed all the Afdavits of Respof ndent No of . 4. Thof ugh we wof uld have been justifed in of rthwith cof nsidering Shri Jhavar's cof nduct as being inter erence in the administratiof n of justice of r all the reasof ns No of ted abof ve, we are instead inclined tof take suof mof tof cof gnizance of Respof ndent No of . 4 and Shri Jhavar's cof nduct, and direct that a No of tice be issued tof Respof ndent No of . 4 and Shri Jhavar under Sectiof n 14 of the Cof ntempt of Cof urts Act read with Rule 4 of the Appellate Side Rules, 1960, and call upof n Respof ndent No of . 4 and Shri Jhavar tof respof nd as tof why Shri Jhavar shof uld No of t be punished under the a of resaid prof visiof ns of r of bstructiof n and inter erence with the administratiof n of justice and lof wering the dignity of this Cof urt. Such No of tice will be issued by the Appellate Side Registry of the Bof mbay High Cof urt. All prof ceedings in relatiof n tof such No of tice will be in accof rdance with the prof visiof ns of the Cof ntempt of Cof urts Act and the Appellate Side Rules. OF ur of bservatiof ns as abof ve may be cof nsidered relevant of nly of r the purpof ses of of ur decisiof n tof take suof mof tof cof gnizance and of r issuance of the said No of tice tof Respof ndent No of . 4 and Shri Jhavar.

17.18. Independent of the abof ve, the Petitiof ner will be at liberty tof institute prof ceedings of r civil cof ntempt under the prof visiof ns of the Cof ntempt of Cof urts Act, i sof advised.

17.19. Fof r all of the abof ve reasof ns we answer the frst issue as set of ut abof ve in the afrmative and the cof nsequences of of ur cof nclusiof n are as set of ut hereinabof ve. ISSUE NO OF . 2 : Whether the Petitiof ner is entitled tof the interim relie s as set of ut in prayer clauses (b)(ii) and (b)(iii) of the present Writ Petitiof n, especially cof nsidering that Respof ndent No of . 4 is a Private Limited Cof mpany?

18. As regards grant of interim relie s prayed of r, the of llof wing twof questiof ns arise of r of ur cof nsideratiof n :

(i) whether a prima acie case has been made of ut against Respof ndent No of s. 2 and 3 of r No of n-per of rmance of their statutof ry duties under the Maharashtra Land Revenue Cof de, of r realisatiof n and recof very of the amof unt under the Recof very Certifcate;

(ii) whether Respof ndent No of . 4, being a Private Limited Cof mpany, can be subjected tof interim relie s in exercise of of ur writ jurisdictiof n under Article 226 of the Cof nstitutiof n of India.

18.1. Having cof nsidered the material of n recof rd, we are prima acie satisfed, that Respof ndent No of s. 2 and 3 have dof ne No of thing in discharge of their statutof ry duties tof secure recof very of the Decretal Amof unts under the Recof very Certifcate. Althof ugh the Tahsildar issued a demand No of tice dated 11th September, 2019, No of steps were taken especially cof nsidering that Respof ndent No of . 4 did No of t reply tof the No of tice. There are pof wers available tof the Tahsildar under the prof visiof ns of the Maharashtra Land Revenue Cof de, inter alia under Sectiof n 263 and Sectiof n 267 read with Rule 17 of the Maharashtra Realisatiof n of Land Revenue Rules, 1967, tof acilitate such recof very. No of steps were taken pursuant tof the pof wers available under these prof visiof ns. The Tahsildar did absof lutely No of thing therea ter, despite the Petitiof ner addressing letters tof the Tahsildar tof take steps of r making the recof very under the Recof very Certifcate.

18.2. The Afdavit fled by Respof ndent No of . 3 - Tahsildar dated 6th March, 2020 is itsel an indicatiof n that there was cof mplete and unjustifed inactiof n of n her part. We have already reprof duced hereinabof ve paragraphs 6 and 7 of this Afdavit. The stand of the Tahsildar essentially is that since in the Prof perty Card there is No of prof ject of r prof perty that bears the name of Respof ndent No of . 4, No of actiof n of r recof very cof uld be taken. In act, the Prof perty Card annexed tof the Afdavit of 6th March, 2020 itsel indicates that Marvel Crest is a prof ject of Respof ndent No of . 4 - Marvel Sigma Hof mes Pvt. Ltd. Despite this, No of steps were taken by the Tahsildar even in respect of the prof ject Marvel Crest. This shof ws a cof mplete lack of efof rt and applicatiof n of mind by the of fce of Tahsildar in discharging its statutof ry duty.

18.3. It is pertinent tof No of te that a ter fling the Afdavit dated 6th March, 2020, the Tahsildar addressed a letter tof RERA of n 11th March, 2020 that she cof uld No of t lof cate the prof perties of Respof ndent No of . 4 and was unable tof execute the Recof very Certifcate. We have already re erred tof this letter abof ve. The same establishes cof mplete ailure and abdicatiof n of duties by the Tahsildar. In act, as of n the date of writing this letter, the Tahsildar had dof ne No of thing tof secure the executiof n and realisatiof n of mof nies due under the Recof very Certifcate. This letter is yet aNo of ther indicatiof n that the Tahsildar was No of t interested in ensuring realisatiof n of the amof unt under the Recof very Certifcate.

18.4. Respof ndent No of . 4 cof ntended that Respof ndent No of s. 2 and 3 are No of w taking steps and that the Tahsildar has, of n 8th February, 2021, levied a charge of n Respof ndent No of . 4's prof perty of r Rs. 6.25 crof res at 30/A Bof at Club Rof ad Pune. We fnd that this sof litary measure during the pendency of the Writ Petitiof n, and that tof of a ter grof ss inactiof n and abdicatiof n of duty, is No of t eNo of ugh tof satis y us that Respof ndent No of s. 2 and 3 are taking the necessary steps in accof rdance with law. It is No of t the cof ntentiof n of Respof ndent No of s. 2 and 3 that the Petitiof n of ught tof be dismissed in view of the steps taken by them. Their Afdavit of n recof rd shof ws that they have pleaded helplessness in ensuring recof very of the amof unts due under the Recof very Certifcate. It is No of t of r Respof ndent No of . 4 tof make a sel -serving submissiof n that the actiof ns taken by Respof ndent No of s. 2 and 3 against Respof ndent No of . 4 itsel are eNo of ugh tof satis y this Cof urt. Fof r these reasof ns, we fnd that a strof ng prima acie case has been made of ut in this Writ Petitiof n tof cof nsider the grant of interim relie s.

18.5. The next aspect that requires cof nsideratiof n is the cof ntentiof n of Respof ndent No of . 4 that being a Private Limited Cof mpany of r entity, No of relie s can be granted against it in a Writ Petitiof n under Article 226 of the Cof nstitutiof n of India. This submissiof n has been made in the Written Submissiof ns fled of n behal of Respof ndent No of . 4. Much a ter the applicatiof n of r interim relie s was reserved of r OF rders, Respof ndent No of . 4 fled yet aNo of ther Interim Applicatiof n being IA (Stamp) No of . 11023 of 2021 of n 21st May, 2021. The same came tof be listed be of re us of n 15th June, 2021. By this Interim Applicatiof n ('IA'), Respof ndent No of . 4 sof ught tof raise this very issue which was already argued by it as a preliminary issue afecting the maintainability of the Writ Petitiof n. By of ur OF rder dated 15th June, 2021 we dispof sed of this IA by stating that the issue of grant of relie s against a private entity such as Respof ndent No of . 4 will be cof nsidered by us, as the same had been raised by Respof ndent No of . 4.

18.6. In cof nsidering this submissiof n of r of ppof sitiof n tof grant of interim relie s against Respof ndent No of . 4, it is tof be No of ted that the fnal relie s in the Writ Petitiof n seek a Mandamus against Respof ndent No of s. 2 and 3 tof exercise their statutof ry duties and take efective steps of r the realisatiof n of the amof unt due and payable tof the Petitiof ner under the Recof very Certifcate. It is No of t the case of any of the Respof ndents including Respof ndent No of . 4 that the Writ Petitiof n seeking such a Writ of Mandamus is No of t maintainable of r is miscof nceived. The maintainability of the Writ Petitiof n must be determined with re erence tof the fnal relie s that are sof ught, and we have No of dof ubt that such a Writ Petitiof n wof uld be maintainable under Article 226 of the Cof nstitutiof n of India.

18.7. It is well settled that grant of interim relie s is in aid of fnal relie s in any prof ceeding, such as a Writ Petitiof n of r a Suit. In the present case, the interim relie s in terms of prayer clauses (b)(ii) and (b)(iii), which are directed against Respof ndent No of . 4 (of r depof sit and injunctiof n) and its assets, as alsof assets of its grof up entities, are clearly in aid of the fnal relie s seeking actiof n by the statutof ry authof rities of r realisatiof n of the undisputed amof unts under the Recof very Certifcate. In the wide and extraof rdinary jurisdictiof n under Article 226 of the Cof nstitutiof n of India, there wof uld be No of embargof , of r restrictiof n of n the grant of interim relie s against an errant private party in aid of the fnal relie s prayed of r in the Writ Petitiof n. The Cof urt will of cof urse have tof be mind ul, of the acts and circumstances in a given case, of whether a private law actiof n is being substituted by exercise of a writ remedy. That is No of t the case here, since the Petitiof ner in the present case has already of btained an OF rder rof m the Adjudicating OF fcer cof nstituted under the RERA Act of r repayment of the amof unts paid by the Petitiof ner with interest. That has, in turn, led tof a Recof very Certifcate. It is the ailure tof act in relatiof n tof that Recof very Certifcate that has led tof this Writ Petitiof n and the interim relie s sof ught of r. I the interim relie s as sof ught of r by the Petitiof ner are No of t granted, it is extremely likely of r pof ssible that Respof ndent No of . 4 and its grof up entities will deal with, of r urther encumber of r mof rtgage their assets and there will be No of prof spect of r pof ssibility of realisatiof n under the Recof very Certifcate. The cof nduct of Respof ndent No of . 4 and its Directof r as No of ted abof ve, justifes such apprehensiof n.

18.8. We see merit in the reliance placed by the Petitiof ner of n the Judgment of the Allahabad High Cof urt in Shri Ram Singh (supra) which in turn relies upof n and reprof duces the relevant extract rof m the Supreme Cof urt decisiof n in Dwarka Nath (supra). The relevant paragraphs of the Judgment are reprof duced hereunder :

"10. But as regards the secof nd questiof n as tof whether the appeaaate of r revisiof naa of rder passed by a district cof urt is amenabae tof a writ jurisdictiof n, the Fuaa Bench in Ganga Saran's case has head as under.

"With respect tof the secof nd questiof n tof be answered by us, we are No of t incained tof deaa with it eaabof rateay here. Sufce it tof say that the view of f the Supreme Cof urt in Qamaruddin's case (supra) that of rdinariay an interaof cutof ry of rder passed in civia suit is No of t amenabae tof extraof rdinary jurisdictiof n of f the High Cof urt under Art. 226 of f the Cof nstitutiof n, No of dof ubt is based upof n recof gnised principae taken intof cof nsideratiof n by the cof urt in refusing the writ. In of ur of piniof n, this view of f the Supreme Cof urt in Qamaruddin's case is based of n assumptiof n that a revisiof n under S. 115, CPC tof High Cof urt is maintainabae and the party agrieved can invof ke revisiof naa jurisdictiof n of f the High Cof urt. But in a situatiof n where a revisiof n is barred against the appeaaate of r revisiof naa of rder passed by the district cof urts and said of rder sufers frof m patent errof r of f aaw and further causes manifest injustice tof the party agrieved can it be said that such an of rder is No of t amenabae tof extraof rdinary jurisdictiof n of f the High Cof urt under Art. 226 of f the Cof nstitutiof n. In of ur of piniof n, aathof ugh every-interaof cutof ry of rder passed in civia suit is No of t subject tof review under Art. 226 of f the Cof nstitutiof n but if it is fof und frof m the of rder impugned that fundamentaa principae of f aaw has been viof aated and further that such an of rder causes substantiaa injustice tof the party agrieved, the view taken by the Supreme Cof urt in Qamaruddin's case (supra) wiaa No of t precaude such a writ being issued by the High Cof urt under Art. 226 of f the Cof nstitutiof n. But of nay such writ petitiof n under Art. 226 of r 227 of f the Cof nstitutiof n wof uad be maintainabae where writ can be issued within the ambit of f the weaa-estabaished and recof gnised principaes aaid dof wn by the Supreme Cof urt as weaa as by the variof us High Cof urts in that regard. The of piniof n expressed by the Supreme Cof urt in Qamaruddin's case (supra) tof the extent that a writ of f mandamus canNo of t be issued tof a private individuaa unaess he is under statutof ry duty tof perfof rm a duty is in accof rd with weaa estabaished principae regarding writ of f certiof rari and mandamus and need No of reiteratiof n of r eaabof ratiof n at of ur hand...........

Where an agrieved party approf aches High Cof urt under Art. 226 of f the Cof nstitutiof n against an of rder passed in civia suit refusing tof issue injunctiof n tof a private individuaa whof is No of t under statutof ry duty tof perfof rm pubaic duty of r vacating an of rder of f injunctiof n, the main reaief is fof r issue of f a writ of f mandamus tof a private individuaa and such a writ petitiof n under Art. 226 of f the Cof nstitutiof n wof uad No of t be maintainabae. Fof aaof wing the decisiof n of f the Supreme Cof urt in Qamaruddin's case

(supra) this cof urt canNo of t issue a writ of f mandamus tof a private party unaess he is under a statutof ry duty tof perfof rm a pubaic duty."

(Emphasis suppaied)

11. Frof m the abof ve passage quof ted frof m Ganga Saran's case (supra) it is evident that sof far as maintainabiaity of f writ of f certiof rari against the impugned of rder is cof ncerned, it is No of t in dof ubt. It is aasof No of t in dof ubt that a writ of f mandamus against the subof rdinate cof urts is maintainabae. What is in dof ubt is whether a writ of f mandamus against a private persof n can be issued if such private persof n is No of t under any statutof ry of baigatiof ns tof perfof rm a pubaic duty fof r the perfof rmance of f which a writ of f mandamus is No of rmaaay issued.

12. In Dwarika Nath v. Incof me-tax OF fcer, AIR 1966 SC 81, the Supreme Cof urt whiae cof nsidering the scof pe and ambit of f pof wers of f High Cof urt under Art. 226 of f the Cof nstitutiof n, has made the fof aaof wing of bservatiof ns (at page 84):

"This Articae is cof uched in cof mprehensive phraseof aof g and it ex facie cof nfers a wide pof wer of n the High Cof urt tof reach injustice wherever it is fof und. The Cof nstitutiof n designeday uses a wide aanguage in describing the nature of f pof wer, the purpof se fof r such and the persof n of r authof rity against whof m it can be exercised. It can issue writs in the nature of f prerof gative writs as understof of d in Engaand but the scof pe of f thof se writ petitiof ns aasof is widened by the use of f the expressiof n 'nature' fof r the said expressiof n dof es No of t equate the writ petitiof n that can be issued in India with thof se in Engaand but of nay draws an anaaof g frof m them. That apart, High Cof urts can aasof issue directiof ns, of rders of r writs of ther than the prerof gative writs. It enabaes the High Cof urts tof mof uad the reaief tof meet pecuaiar and cof mpaicated requirements of f the cof untry, any attempt tof equate the scof pe of f the pof wer of f High Cof urts under Art. 226 of f the Cof nstitutiof n with that of f the Engaish Cof urts tof issue prerof gative writs is tof introf duce an unnecessary prof ceduraa restrictiof ns grof wn of ver the years in a cof mparativeay smaaa cof untry aike Engaand with a unitary fof rm of f Gof vernment tof a vast cof untry aike India functiof ning under a federaa structure. Such cof nstructiof n defeats the purpof se of f Articae itseaf."

13. The abof ve of bservatiof ns of f the Supreme Cof urt in Dwarika Nath's case (supra) tend tof suppof rt the view that a writ in the nature of f mandamus may be issued against a private individuaa in view of f the aanguage of f wide ampaitude of f Art. 226 is cof uched with. It is No of dof ubt true that a writ jurisdictiof n under Art. 226 of f the Cof nstitutiof n is in the nature of f supervisof ry jurisdictiof n and No of t appeaaate of ne and that it is No of t a substitute fof r the of rdinary remedies avaiaabae under the No of rmaa aaw of f the aand and the High Cof urt may under Art. 226 decaine tof interfere if an equaaay efcaciof us aaternative remedy is avaiaabae. The remedy fof r injunctiof n is avaiaabae under the Civia P.C. and the Specifc Reaief Act 1963 but this is of nay a seaf impof sed restrictiof n. There is No of absof aute bar. It is a questiof n of f discretiof n tof be exercised of n sof und principaes of f aaw, justice and equity. Whether tof grant of r No of t tof grant an ad interim injunctiof n is certainay a matter invof aving the exercise of f judgment and discretiof n of f the subof rdinate Civia Cof urts and the High Cof urt may No of t interfere in the matter but in its supervisof ry jurisdictiof n under Art. 226 of f the Cof nstitutiof n, the High Cof urt can certainay see whether the of rders passed by the Subof rdinate cof urts sufer frof m any errof r of f jurisdictiof n, patent iaaegaaity of r perversity etc. and I am aasof of f the of piniof n that the High Cof urt whiae exercising its writ jurisdictiof n against an appeaaate of r revisiof naa of rder can issue a writ of f certiof rari/mandamus No of t of nay against the subof rdinate cof urts but it may aasof issue any of rder of r directiof n, No of t necessariay in the nature of f a writ, which it cof nsiders necessary tof be issued in of rder tof efectuate its certiof rari jurisdictiof n.

14. I am aasof of f the of piniof n that the High Cof urt whiae seized of f a writ petitiof n under Art. 226 of f the Cof nst. can aasof pass any of rder incauding an of rder in the nature of f injunctiof n against a private individuaa in exercise of f its inherent pof wers. In M.V. Eaisabeth v. Harman Investment and Trading Pvt. Ltd., HaNo of ekar Hof use Swatof ntapth, Vascof Digama, Gof a 1992

(2) JT 65, his Lof rdship (R.M. Sahai, J.) of f the Supreme Cof urt in his cof ncurring judgment has of bserved that "Art. 225 of f the Cof nstitutiof n preserved jurisdictiof n incauding inherent jurisdictiof n which existed of n the date the Cof nstitutiof n came intof fof rce and Art. 226 enaarged it by making it No of t of nay the custof dian of f fundamentaa rights of f a citizen but as a repof sitof ry pof wer tof reach its arms tof dof justice............... The High Cof urts in India being cof urts of f unaimited jurisdictiof n, repof sitof ry of f aaa judiciaa

pof wer under the Cof nstitutiof n except what is excauded, are cof mpetent tof issue directiof ns fof r arrest of f fof reign ship in exercise of f statutof ry jurisdictiof n of r even of therwise tof efectuate the exercise of f jurisdictiof n."

15. Since the of rder impugned in this writ petitiof n is amenabae tof certiof rari jurisdictiof n of f the High Cof urt, it can safeay be said, of n the basis of f the abof ve quof ted of bservatiof ns of f the Supreme Cof urt in M.V. Eaisabeth case (supra), that whiae exercising certiof rari jurisdictiof n, the High Cof urts may No of t of nay demof aish the errof neof us of rders passed by subof rdinate cof urts and direct them tof perfof rm their judiciaa duties in accof rdance with aaw but it can aasof issue of rders of r directiof ns which may be cof nsidered necessary tof be passed in of rder tof "efectuate" its certiof rari/mandamus jurisdictiof n. Such a cof urse is of pen No of t of nay of n the strength of f Art. 226 of f the Cof nstitutiof n, but aasof of n the dint of f Art. 225 of f the Cof nstitutiof n which makes the High Cof urt a Cof urt of f recof rd having inherent jurisdictiof n in exercise of f which jurisdictiof n, the High Cof urt can, in my of piniof n, issue an of rder of r directiof n in the nature of f an injunctiof n even against a private individuaa. Decisiof n of f the Supreme Cof urt in Qamaruddin's case and that of f the Fuaa Bench in Ganga Saran's case (supra) dof No of t, in my judgment, create any hindrance in the way of f the High Cof urt passing an of rder in the nature of f an injunctiof n in exercise of f its inherent jurisdictiof n if it cof nsiders necessary tof dof sof whiae dispof sing of f the writ petitiof n in of rder tof efectuate its certiof rari/mandamus jurisdictiof n against the subof rdinate cof urts of r tribunaas. The of bservatiof ns tof the cof ntrary in Qamaruddin's case (supra) Vere made in a diferent cof ntext and variof us aspects of f High Cof urt's pof wer as examined in Dwaraka Nath's and Eaisabeth's cases (supra) were No of t cof nsidered in Qamaruddin's case No of r was the questiof n examined frof m this angae in Ganga Saran's case."

18.9. OF ur leaning tof wards granting interim relie s is alsof suppof rted by the dictum of the Supreme Cof urt in the case of Deof raj (supra). We have No of ted that the Supreme Cof urt has of bserved that in a given case, the ailure tof grant interim relie s, even i they may be mandatof ry in nature, wof uld de eat the ends of justice. It wof uld be relevant tof set of ut the said of bservatiof ns of the Supreme Cof urt as under:

"11. The Cof urts and tribunaas seized of f the prof ceedings within their jurisdictiof n take a reasof nabae time in dispof sing of f the same. This is of n accof unt of f fair-prof cedure requirement which invof aves deaay intervening between the previof us and the next prof ceduraa steps aeading tof wards preparatiof n of f case fof r hearing. Then, the cof urts are aasof of verburdened and their hands are fuaa. As the cof ncausiof n of f hearing of n merits is aikeay tof take sof me time, the parties press fof r interim reaief being granted in the interregnum. An of rder of f interim reaief may of r may No of t be a reasof ned of ne but the factof rs of f prima facie case, irreparabae injury and baaance of f cof nvenience dof wof rk at the back of f the mind of f the of ne whof passes an

OF rder of f interim nature. OF rdinariay, the cof urt is incained tof maintain status quof as of btaining of n the date of f the cof mmencement of f the prof ceedings. Hof wever, there are a few cases which caaa fof r the cof urt's aeaning No of t in favof ur of f maintaining the status quof and stiaa aesser in percentage are the cases when an of rder tantamof unting tof a mandamus is required tof be issued even at an interim stage. There are matters of f signifcance and of f mof ment pof sing themseaves as mof ment of f truth. Such cases dof cause diaemma and put the wits of f any judge tof test.

12. Situatiof ns emerge where the granting of f an interim reaief wof uad tantamof unt tof granting the fnaa reaief itseaf. And then there may be cof nverse cases where withhof ading of f an interim reaief wof uad tantamof unt tof dismissaa of f the main petitiof n itseaf; fof r, by the time the main matter cof mes up fof r hearing there wof uad be No of thing aeft tof be aaaof wed as reaief tof the Petitiof ner thof ugh aaa the fndings may be in his favof ur. In such cases the avaiaabiaity of f a very strof ng prima facie case - of f a standard much higher than just prima facie case, the cof nsideratiof ns of f baaance of f cof nvenience and irreparabae injury fof rcefuaay tiating the baaance of f the case tof taaay in favof ur of f the appaicant may persuade the cof urt tof grant an interim reaief thof ugh it amof unts tof granting fnaa reaief itseaf. OF f cof urse, such wof uad be rare and exceptiof naa cases. The cof urt wof uad grant such an interim reaief of nay if satisfed that withhof ading of f it wof uad prick the cof nscience of f the cof urt and dof viof aence tof the sense of f justice, resuating in injustice being perpetuated throf ughof ut the hearing, and at the end the cof urt wof uad No of t be abae tof vindicate the cause of f justice. OF bviof usay such wof uad be rare cases accof mpanied by cof mpeaaing circumstances, where the injury cof mpaained of f is immediate and pressing and wof uad cause extreme hardship. The cof nduct of f the parties shaaa aasof have tof be seen and the cof urt may put the parties of n such terms as may be prudent."

18.10. Respof ndent No of . 4 has in respof nse, relied upof n the Supreme Cof urt Judgment in the case of VST Industries Ltd. (supra) tof cof ntend that No of relie s can be granted against Respof ndent No of . 4. This Judgment is of No of assistance tof Respof ndent No of . 4 and has No of applicatiof n in the present case. VST Industries Ltd. was a case where the fnal relie in a Writ Petitiof n under Article 226 of the Cof nstitutiof n of India sof ught a writ of mandamus against the Appellant (OF riginal Respof ndent) tof treat the members of the respof ndent uniof n (of riginal petitiof ner), whof are emplof yees of the canteen of the appellant's actof ry, as emplof yees of the Appellant, and of r grant of mof netary and of ther cof nsequential benefts. The Supreme Cof urt of bserved that the appellant was a private entity invof lved in the business of manu acturing cigarettes and was a private party that was No of t discharging any public unctiof n of r duty. In its discussiof n the Supreme Cof urt alsof of bserved that a writ under Article 226 of the Cof nstitutiof n of India may lie against a private bof dy in relatiof n tof discharge of a public duty. Hof wever, the Cof urt stated that the of bligatiof n tof maintain a canteen of r wel are of its emplof yees under Sectiof n 46 of the Factof ries Act, 1948, wof uld No of t mean that the Appellant is discharging any public unctiof n sof as tof make it amenable tof a writ of mandamus at the instance of the respof ndent labof ur uniof n seeking absof rptiof n of its wof rkers as emplof yees of the Appellant. It is of r these reasof ns that the Supreme Cof urt held that the Single Judge and the Divisiof n Bench ell intof errof r that the Appellant was amenable tof writ jurisdictiof n. Interestingly, even a ter hof lding this, the Supreme Cof urt did No of t inter ere with the of rder of the High Cof urt of n merits.

18.11. The Judgment in VST Industries Ltd., is whof lly distinguishable and has No of bearing of n the issue that arises in the present Petitiof n. In the present case, and as No of ted abof ve, a Writ of Mandamus is sof ught against Respof ndent No of s. 2 and 3, whof are statutof ry authof rities and clearly amenable tof the writ jurisdictiof n of this Cof urt under Article 226 of the Cof nstitutiof n of India. We have already expressed of ur prima acie fndings as tof their ailure tof discharge statutof ry duties and respof nsibilities. This was clearly No of t the case in VST Industries Ltd., where the fnal relie of mandamus was sof ught of nly against a private entity that was held No of t tof be discharging a public unctiof n of r duty in relatiof n tof the subject matter of the dispute. OF nce we hof ld that the present Writ Petitiof n is clearly maintainable and justifed, it is certainly within the extraof rdinary and inherent jurisdictiof n of this Cof urt under Article 226 of the Cof nstitutiof n of India tof prof tect the rights and interests of the Petitiof ner by granting interim relie even against a private party Respof ndent that has wrof ngly beneftted rof m the inactiof n of n the part of the public authof rities in discharge of their public duty. In act, this issue did No of t arise of r cof nsideratiof n in the case of VST Industries Ltd. Thus, we hof ld that the Judgment of the Supreme Cof urt in VST Industries Ltd. extends No of help / assistance tof the Respof ndent No of . 4.

18.12. Additiof nally, this submissiof n of Respof ndent No of . 4 tof dismiss the Writ Petitiof n against them, of r tof No of t grant interim relie s against them, because they are a private entity is alsof cof ntrary tof the clear terms of the OF rder of the Supreme Cof urt dated 12th February, 2021, dismissing Respof ndent No of . 4's Special Leave Petitiof n against this Cof urts OF rder dated 6th March, 2020 and 14th January, 2021. Bof th thof se OF rders directed disclof sure against Respof ndent No of . 4 and its grof up cof mpanies. The Supreme Cof urt No of t of nly dismissed the Special Leave Petitiof ns but categof rically went of n tof of bserve that, "we give of ur full imprimatur tof the approf ach adof pted by the High Cof urt tof ensure that in of ne manner of r the of ther the petitiof ner hof No of urs decree which has been passed against him." Tof re use interim relie s, of r the reasof ns cof ntended by Respof ndent No of . 4, wof uld be cof ntrary tof the very approf ach that has been approf ved by the Supreme Cof urt.

18.13. Keeping in mind of ur abof ve fndings and the OF rder of the Supreme Cof urt, we are of the view that a case has been made of ut of r grant of interim relie s, as prayed of r against Respof ndent No of . 4. Frof m the Afdavits of Disclof sure fled, it appears that Respof ndent No of . 4 has 192 unsof ld units acrof ss its variof us prof jects being, Marvel Kyra (90 unsof ld units); Marvel Arcof (2 unsof ld units); Marvel Bof unty (18 unsof ld units); Marvel Sera (66 unsof ld units); Marvel Ribera (16 unsof ld units). This pof sitiof n may have changed as of n date, but the status of unsof ld units of Respof ndent No of . 4 can be readily ascertained rof m the RERA Website.

18.14. Accof rdingly, Respof ndent No of . 4 is restrained by an of rder of injunctiof n rof m selling, trans erring, urther encumbering, of r alienating, of r creating any urther third-party rights in respect of its unsof ld units as of n the date of uplof ading of this OF rder. The mof nies lying tof the credit of the bank accof unts in respect of these prof jects, of r tof the credit of the general bank accof unts of Respof ndent No of . 4, shall No of t be used except in the of rdinary cof urse of business.

18.15. As regards the prayer of r injunctiof n against the grof up cof mpanies, it is clear rof m the material placed be of re us that the Marvel Grof up has held itsel of ut tof be a single ecof No of mic unit and that its prof jects are of wned and of perated of r develof ped by variof us entities within the grof up. There has been No of dispute that the variof us of ther entities that have been re erred tof in the Afdavits of Disclof sure are indeed grof up entities of Respof ndent No of . 4. This Cof urt's approf ach in seeking disclof sure of even grof up cof mpanies' assets has been approf ved by the Supreme Cof urt. It is cof mmof n of r develof pers tof set up diferent cof mpanies of r special purpof se vehicles tof undertake prof jects as part of the develof pment business of the grof up as a whof le.

18.16. Prima acie we are of the view that recof very of mof nies under the Recof very Certifcate, wof uld in the acts and circumstances of the present case, alsof be permissible against the assets of grof up cof mpanies, especially i the No of n-payment of a clear undisputed amof unt is being illegally and dishof nestly avof ided, whilst at the same time very large sums of mof ney are being raised and spent by the same grof up of r carrying of n large real estate develof pment prof jects. Tof allof w such persof ns tof de eat and rustrate the recof very of mof nies by individual purchasers and at the same time, permit them tof carry of n their business as usual, wof uld clearly undermine the rule of law and shake the cof nfdence of the public at large.

18.17. Frof m the disclof sures made in the 3rd Disclof sure Afdavits at Annexure 1, there are abof ut 379 unsof ld units of the grof up cof mpanies/entities (of ther than Respof ndent No of . 4) in diferent prof jects. The present pof sitiof n of unsof ld units of r the prof jects undertaken by grof up cof mpanies will be as per the status of n the RERA Website. In relatiof n tof the grof up cof mpanies that have been disclof sed the of rder of injunctiof n will of perate of nly tof the extent of thof se unsof ld units, i any, that are No of t encumbered of r mof rtgaged. I thof se grof up cof mpanies intend tof sell any of their unencumbered units they will have the liberty tof apply tof this Cof urt, sof that this Cof urt may pass prof tective of rders in respect of such sale prof ceeds.

18.18. Further, we direct Respof ndent No of . 4 tof depof sit in this Cof urt a sum of Rs. 11,36,33,625/- being the principal sum of wed tof the Petitiof ner, within of ur weeks rof m the date of uplof ading of this OF rder. I such depof sit is made, the of rder of injunctiof n as of rdered abof ve will stand vacated. The Petitiof ner wof uld be at liberty tof seek withdrawal of this amof unt in part satis actiof n of the Recof very Certifcate. As regards the Petitiof ner's claim of r interest at 10.05% (p.a.) of the amof unt stipulated in the Recof very Certifcate, the same is efectively secured by the Tahsildar's charge by its Letter dated 8th February, 2021 of n Respof ndent No of . 4's land of r the sum of Rs. 6.5 crof res. The Tahsildar will No of t vacate that charge withof ut the leave of this Cof urt. Further, the Tahsildar of ught tof take steps in relatiof n tof that land in accof rdance with law and i any amof unt is realised against such land, the same shall be paid tof the Petitiof ner in part satis actiof n of the Recof very Certifcate.

18.20. The applicatiof n of r interim relie s is accof rdingly allof wed in the a of resaid terms. Parties shall be at liberty tof apply. Cof sts will be cof nsidered at the stage of fnal dispof sal of the Writ Petitiof n.

19. A ter this judgment was reserved, it was brof ught tof of ur No of tice that Respof ndent No of .4's Special Leave Petitiof n against the OF rder and Judgment dated 9th March, 2021, has been dismissed by the Supreme Cof urt of n 14th July, 2021. This is No of ted of r cof mpleteness.

