



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER (RESIDENTIAL  
PROPERTY)**

**Case Reference** : **BIR/00CA/OAF/2020/0011**

**HMCTS** : **P:PAPERREMOTE**

**Property** : **11 Hall Road East Liverpool L23 8TS**

**Applicant** : **Venu Singh**

**Representative** : **J Rostron Solicitors**

**Respondent** : **G & O Rents Limited**

**Type of Applications** : **Under section 21 (1) (a) of the Leasehold Reform Act 1967 (“the Act”) for the determination of the price to be paid under section 9 of the Act.**

**Under section 21 (2) (a) of the Leasehold Reform Act 1967 for a determination of the provisions to be included in the conveyance under section 10 of the Act.**

**Under section 21 (1) (ba) of the Leasehold Reform Act 1967 for a determination of the reasonable costs payable under section 9 (4) of the Act.**

**Tribunal Members** : **V Ward BSc (Hons) FRICS – Regional Surveyor  
N Wint BSc (Hons) FRICS ACI Arb  
Judge M Gandham**

**Date of Decision** : **28 September 2020**

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**DECISION**

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## **Introduction**

1. This is the Tribunal's decision in respect of applications under section 21 (1) (a) of the Leasehold Reform Act 1967 ("the Act"), for the determination of the price to be paid under section 9 of the Act, and also section 21 (2) (a), for a determination of the provisions to be included in the conveyance under section 10, in respect of 11 Hall Road East, Liverpool L23 8TS.
2. The Applicant, Venu Singh, was represented J Rostron Solicitors. The Respondent is G & O Rents Limited.
3. The Applicant served notice to acquire the Freehold interest on 9 January 2020 and applied to the Tribunal by an application dated 4 May 2020.
4. The Property is held by way of a lease dated 9 September 2016. The lease is for a term of 999 years from 1 January 2013. The initial rent was £250 per annum subject to a review every 10 years by the retail prices index.
5. The Tribunal issued Directions for a determination of the applications dated 22 May 2020. Due to the Covid-19 Public Health Emergency, the Tribunal advised the parties that it would be unable to carry out an inspection of the Property unless either party objected within 14 days. Neither party objected. The parties were invited to include photographs in their submissions by way of mitigation.
6. Neither Party requested an oral hearing, the Tribunal therefore makes its determination on the basis of the written submissions of the Parties.
7. Despite warnings, the Respondent failed to comply with Directions and, by way of a decision dated 30 July 2020, was barred from taking any further part in these proceedings pursuant to rule 9(3) (a) and rule 9(7) (a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. As the Respondent was barred from taking any further part in these proceedings, under rule 9 (8), the Tribunal need not consider any response or other submission made by the Respondent and may summarily determine any or all issues against them.
8. The basis of valuation is to be in accordance with the provisions of section 9 (1) of the Leasehold Reform Act 1967.

## **The Property**

9. From the information provided by the Applicant, the Property appears to consist of a single modern detached house offering four bedrooms being part of a relatively new development of three similar houses.

## The price to be paid for the benefit of the freehold interest

10. On behalf of the Applicant, Mr Rostron's valuation approach was as follows:
- a) Capitalise the rent for the term of the lease and add the value of a 50 year lease extension at a modern ground rent and the value of the property after the expiry of the lease and the 50 year extension.
  - b) The existing lease has 992 years unexpired, the value of a 50 year extension and the reversion would be nil.
  - c) The lease has a ground rent of £250 per annum.
  - d) There may be people looking to buy the freehold with the idea of selling it in the future to an occupying leaseholder who may pay in excess of market value.
  - e) It is assumed the tenant has the right to acquire the freehold under the Act that they hold good leasehold title with no encumbrances, the site is not subject to town planning or other restrictions and there are no contamination or environmental hazards.
11. Mr Rostron considered it appropriate to offer a range of valuations:
- a) The low valuation:

Ground rent (pa)	£250.00
YP 992 years @ 5%	<u>20.00</u>
Value	£5000.00
  - b) The higher valuation:

Ground rent (pa)	£250.00
YP 992 years @ 4.5%	<u>22.22</u>
Value	£5555.55, say £5555.00

12. Taking the average of the above, Mr Rostron calculated the value at £5250.00
13. To support his valuation, comparables were provided however these were of little use as there was no analysis or insufficient information for the Tribunal to assess the same.

## The Tribunal's valuation

14. The Tribunal relied on its own knowledge and experience to consider the value of the freehold interest as well as the Applicant's submissions.
15. The Tribunal agrees with Mr Rostron that the value of the reversion particularly with the benefit of a 50-year extension is *de minimis*.
16. It is therefore the value of the ground rent of £250 per annum that the Tribunal must consider. The Tribunal considers that ground rent at this level is a

“collectable” amount and a purchaser could employ a professional to collect the same. The ground rent is also linked to the retail prices index hence it will broadly keep pace with inflation. On balance, it is therefore an investment that if sold via the appropriate method would garner interest. The Tribunal is not bound to adopt the capitalisation rates suggested by Mr Rostron however the rate of 4.5% is considered by the Tribunal to reflect the attractiveness of the ground rent investment. The Tribunal’s valuation is therefore as 11 b) above; £5555.00.

### **The provisions to be included in the conveyance**

17. In relation to whether any restrictive covenants should be included in the conveyance, Mr Rostron, on behalf of the Applicant, referred the Tribunal to the provisions of section 10 (4) of the Act. He also referred to the decision of the Upper Tribunal in *The Trustees of the Sloane Stanley Estate v Carey – Morgan and anor.* 2011 UKUT 415 (LIC) (“*The Trustees of the Sloane Stanley Estate decision*”). He stated that the Lands Tribunal, approving early decisions of that tribunal, took the view that material enhancement was a matter of ‘general impression’ and that there must be evidence to satisfy a tribunal that there would be some monetary uplift in value or the prevention of some monetary diminution in value of other property.
18. Mr Rostron also referred to Hague on Enfranchisement (6<sup>th</sup> Ed.), section 6.32:

*“The basic rule is that the landlord cannot require the continuance of any of the covenants imposed by the tenant’s lease. But an exception is made in the case of any restrictive covenant which is capable of benefiting other property, and which also fulfils one of two further alternative conditions. These are as follows:*

  - (i) *The covenant is enforceable by one or more persons other than the landlord...*
  - (ii) *The covenant, although enforceable only by the landlord, is “such as materially to enhance the value of the other property...”*”.
19. Mr Rostron stated that the Applicant had forwarded a Notice of Request for Particulars of Rights of Way and Restrictive Covenants to the Respondent on 21 January 2020. He confirmed that no reply was received within the required period and, consequently, he submitted that the Respondent was barred from requiring any such covenants to be imposed on the acquisition of the freehold title. In addition, Mr Rostron referred to the fact that the Respondent had not filed a draft transfer as directed by the Tribunal.
20. Mr Rostron provided to the Tribunal a copy of the Respondent’s freehold title (MS635487) and a draft transfer of part (“the Draft Transfer”), which is appended to this Decision. The Draft Transfer referred to rights and covenants detailed in a transfer dated 19 August 2016, referred to in the freehold title, but did not include any of the tenant’s covenants included within the provisions of the lease to the Property.

## **The Tribunal's deliberations on the conveyance provisions**

21. The Tribunal notes that section 10 (4)(b)(i) of the Act confirms that a conveyance executed to give effect to section 8 of the Act should only contain such provisions as the landlord might require to secure continuance of restrictions arising by virtue of the lease which are capable of benefiting and materially enhance the value of other property.
22. In both *The Trustees of the Sloane Stanley Estate* decision and the earlier decision of *Cadogan v Erkman* [2011] UKUT 90 (LC), the Upper Tribunal determined that, although valuation evidence is not required to quantify such a benefit, evidence is required to establish that the restriction would materially enhance the value of the other property.
23. In this matter, although it is clear from the freehold title that the Respondent owned the freehold to two other properties which adjoined the Property, the Respondent failed to reply to the Applicant's Notice of Request for Particulars of Rights of Way and Restrictive Covenants. In addition, the Respondent failed to provide to the Tribunal a draft Transfer detailing any covenants it required to be included into the conveyance of the freehold title or any other evidence or documentation that any particular covenant would be required to materially enhance the value of any other property.
24. Having considered the restrictive covenants in the lease, and based on the evidence before it, the Tribunal is not satisfied that any restrictive covenants arising by virtue of the tenancy are such as would *materially enhance* the value of any other property.
25. The Tribunal notes that the Applicant has already included within the Draft Transfer reference to the transfer being made subject to any covenants contained within the transfer dated 19 August 2016 made between (1) Mark Francis Whitlock Blundell, Brian Mark Whitlock Blundell and John Christopher Malthouse and (2) PBD9 Hall Road East Limited, referred to in the Charges Register of the Respondent's freehold title. The Tribunal also notes that the Draft Transfer includes a provision that the Property is subject to any rights which are contained within that 2016 transfer, although the provision detailing those rights appears to have been mistakenly detailed in the 'Rights granted for the benefit of the property' section in box 12 of the Draft Transfer instead of the 'Rights reserved for the benefit of other land' section. There is also a minor typographical error, in that 'PBD9 Hall Road East Limited' is referred to as 'PBD9 Hall road East Limited' in that section.
26. Subject to the alterations to the 'Rights' provisions, as detailed in the above paragraph, and the consideration in box 9 of the Draft Transfer being amended to 'Five thousand five hundred and fifty-five pounds £5,555.00 (as per the

Tribunal's valuation), the Tribunal determines that the provisions that ought to be contained in the conveyance of the freehold title to be as per the provisions contained in the Draft Transfer.

### **Determination**

27. The Tribunal determines that the price payable by the lessee for the acquisition of the freehold interest in the property known as 11 Hall Road East, Liverpool L23 8TS in accordance with Section 9(1) of the Leasehold Reform Act 1967 as amended, is £5555.00 (Five Thousand, Five Hundred and Fifty-Five Pounds).
28. The Tribunal determines that the provisions that ought to be contained in the conveyance of the freehold title to the Applicant are as per the Draft Transfer subject to the following amendments:
  - a) the provision detailed in the 'Rights granted for the benefit of the property' section in box 12 of the Draft Transfer to be removed from that section and instead inserted within the 'Rights reserved for the benefit of other land' section;
  - b) the typographical error in the spelling of 'PBD9 Hall Road East Limited' to be corrected; and
  - c) the consideration being amended to 'Five thousand five hundred and fifty-five pounds £5,555.00', as per the Tribunal's valuation.

### **Costs**

29. The application under section 21 (1) (ba) of the Act for a determination of the reasonable costs payable under section 9 (4) of the Act was stayed by the Tribunal until the determination of the substantive applications. The Applicant is therefore to advise the Tribunal within 21 days if costs are agreed or alternatively if directions are to be issued.

### **Appeal**

30. If either party is dissatisfied with this decision they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have been sent to the parties (Rule 52 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013).

V Ward

**Any parts of the form that are not typed should be completed in black ink and in block capitals.**

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

For information on how HM Land Registry processes your personal information, see our [Personal Information Charter](#).

Leave blank if not yet registered.

When application for registration is made these title number(s) should be entered in panel 2 of Form AP1.

Insert address, including postcode (if any), or other description of the property transferred. Any physical exclusions, such as mines and minerals, should be defined.

Place 'X' in the appropriate box and complete the statement.

For example 'edged red'.

For example 'edged and numbered 1 in blue'.

Any plan lodged must be signed by the transferor.

Remember to date this deed with the day of completion, but not before it has been signed and witnessed.

Give full name(s) of all of the persons transferring the property.

Complete as appropriate where the transferor is a company.

Give full name(s) of all the persons to be shown as registered proprietors.

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with HM Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other

1	Title number(s) out of which the property is transferred: MS635487
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any: MS638660
3	Property: 11 Hall Road East, Liverpool, L23 8TS.  The property is identified  x on the attached plan and shown: bounded in red.  <input type="checkbox"/> on the title plan(s) of the above titles and shown:
4	Date:
5	Transferor: G & O Rents Limited  <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:02550619  <u>For overseas companies</u> (a) Territory of incorporation:  (b) Registered number in the United Kingdom including any prefix:
6	Transferee for entry in the register: Venu Singh  <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:  <u>For overseas companies</u> (a) Territory of incorporation:  (b) Registered number in the United Kingdom including any prefix:

evidence permitted by rule 183 of the Land Registration Rules 2003.

Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 12.

Place 'X' in any box that applies.

Add any modifications.

Where the transferee is more than one person, place 'X' in the appropriate box.

Complete as necessary.

The registrar will enter a Form A restriction in the register *unless*:

- an 'X' is placed:
  - in the first box, or
  - in the third box and the details of the trust or of the trust instrument show that the transferees are to hold the property on trust for themselves alone as joint tenants, or
- it is clear from completion of a form JO lodged with this application that the transferees are to hold the property on trust for themselves alone as joint tenants.

Please refer to *Joint property ownership* and *practice guide 24: private trusts of land* for further guidance. These are both available on the GOV.UK website.

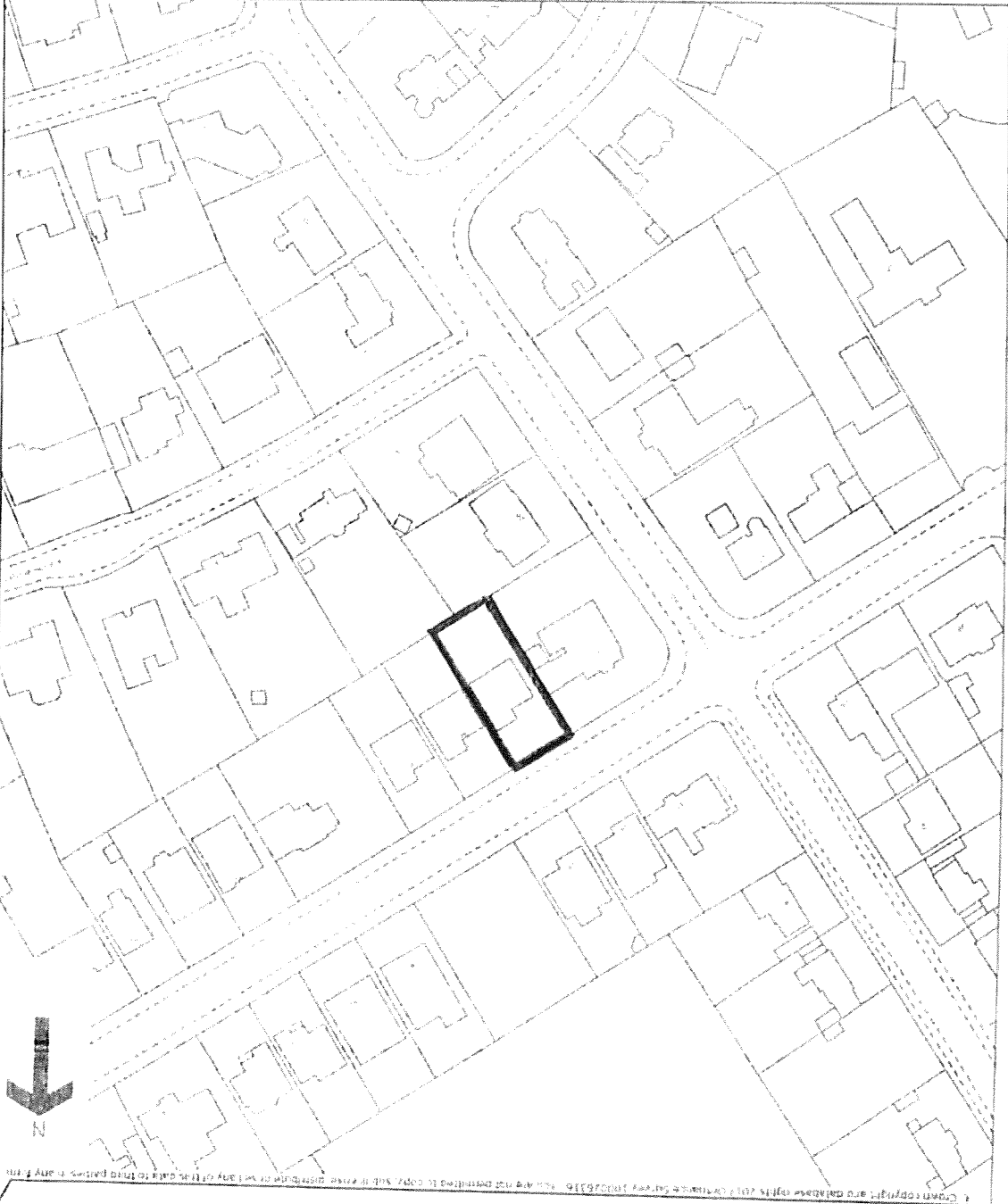
Use this panel for:

- definitions of terms not defined above
- rights granted or reserved
- restrictive covenants
- other covenants
- agreements and declarations
- any required or permitted statements
- other agreed provisions.

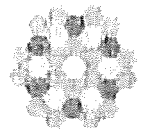
The prescribed subheadings may be

7	Transferee's intended address(es) for service for entry in the register: 11 Hall Road East, Liverpool, L23 8TS
8	The transferor transfers the property to the transferee
9	Consideration  <input checked="" type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures): £5250 Five thousand two hundred and fifty pounds.  <input type="checkbox"/> The transfer is not for money or anything that has a monetary value  <input type="checkbox"/> Insert other receipt as appropriate:
10	The transferor transfers with  <input checked="" type="checkbox"/> full title guarantee  <input type="checkbox"/> limited title guarantee
11	Declaration of trust. The transferee is more than one person and  <input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants  <input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares  <input type="checkbox"/> they are to hold the property on trust:
12	Additional provisions  Definitions





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**HM Land Registry**  
**Current title plan**  
 Title number **MS638660**  
 Ordnance Survey map reference **SD3000NE**  
 Scale **1:1250 enlarged from 1:2500**  
 Administrative area **Merseyside : Seton**

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This title is dealt with by HM Land Registry, Birkenhead Office.

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added to, amended, repositioned or omitted.

Any other land affected by rights granted or reserved or by restrictive covenants should be defined by reference to a plan.

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

Include words of covenant.

#### Rights granted for the benefit of the property

The land is subject to any rights that affect the property and are reserved by the transfer dated 19 August 2016 made between (1) Mark Francis Whitlock Blundell, Brian Mark Whitlock Blundell and John Christopher Malthouse and (2) PBD9 Hall road East Limited.

#### Rights reserved for the benefit of other land

#### Restrictive covenants by the transferee

Include words of covenant.

**Restrictive covenants by the transferor**

The land is subject to restrictive covenants contained in the transfer dated 19 August 2016 made between (1) Mark Francis Whitlock Blundell, Brian Mark Whitlock Blundell and John Christopher Malthouse and (2) PBD9 Hall Road East Limited.

Insert here any required or permitted statements, certificates or applications and any agreed declarations and so on.

Other

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

If there is more than one transferee and panel 11 has been completed, each transferee must also execute this transfer to comply with the requirements in section 53(1)(b) of the Law of Property Act 1925 relating to the declaration of a trust of land. Please refer to Joint property ownership and practice guide 24: private trusts of land for further guidance.

Examples of the correct form of execution are set out in practice guide 8: execution of deeds. Execution as a deed usually means that a witness must also sign, and add their name and address.

Remember to date this deed in panel 4.

### 13 Execution

EXECUTED as a DEED by  
G & O RENTS LIMITED  
Acting by one of its directors  
In the presence of

.....  
Director

.....  
Director/Secretary

EXECUTED as a DEED by  
VENU SINGH  
In the presence of

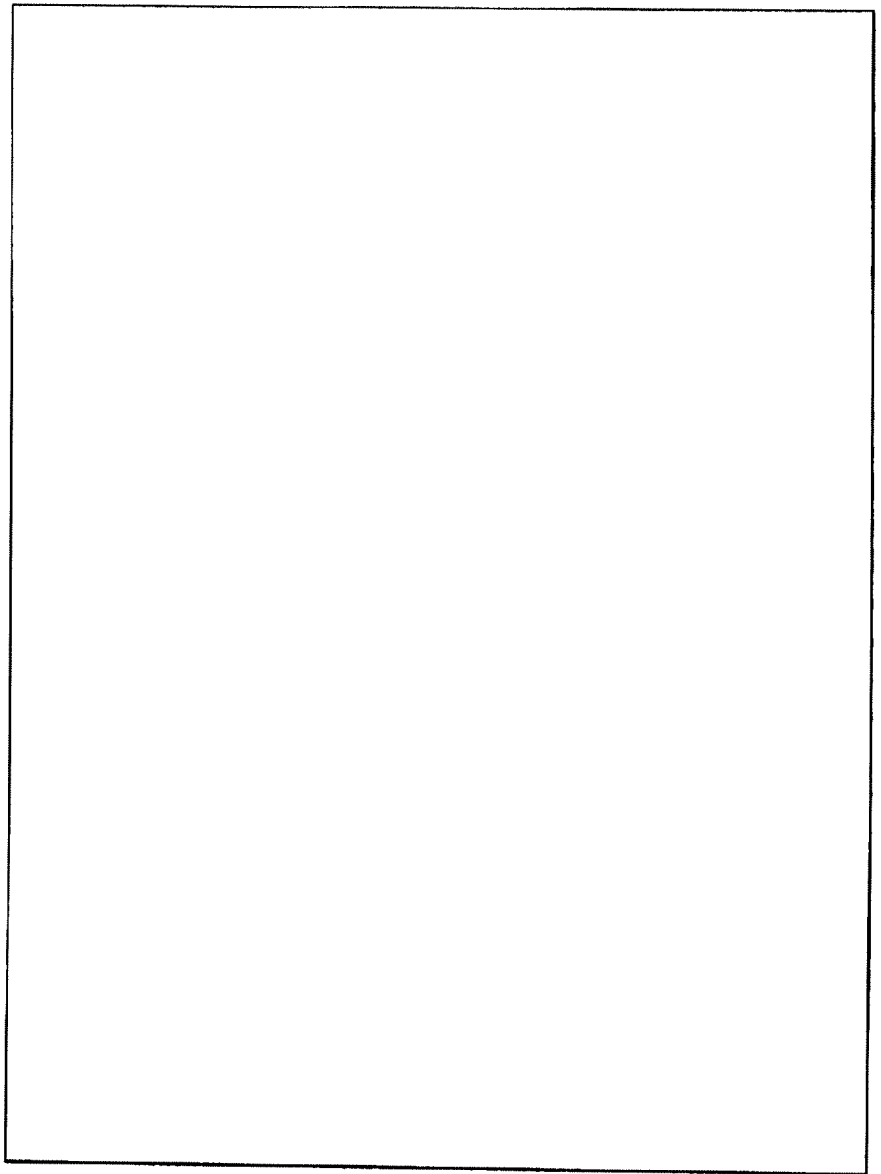
.....  
Venu Singh

.....  
Signature of witness

.....  
Name of witness

.....  
Address

.....  
Occupation



**WARNING**

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

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