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Investigate title before investing

Buyers should check on title and a number of other things before investing in land or property. **Gajanan Khergamker** *spells out some important guidelines to be followed by the purchaser to ensure that the title and property are free of encumbrances.*

While investing in any property, it is always the buyer's duty to make sure that the title of property is clear of all encumbrances.It would help to appoint advocates to verify and investigate the seller's title to the property.

Generally, once a sale agreement is executed, the seller immediately sends the property's original title deeds to the buyer or his advocate against a receipt. After it has been received, it is now the buyer's responsibility to keep these original deeds safe. Buyers can use some of the below mentioned guidelines to ascertain if the seller's title to the property is clear and free from encumbrance.

Role of an advocate

Firstly, the advocate on his part should carry out investigations in the offices of the sub-registrar to cull out all the documents registered in relation to the property. He/She should establish the Cadestral Survey Number (CS) and the City Survey Number (CTS) and collects other details. Under the present laws of limitation, any mortgagor has about 30 years from the date to redeem or recover possession accrues which therefore allows the title to be traced back to thirty five to forty years.

The state government has introduced a number of provisions requiring registration of notices that provide details of the pending litigations in respect to the property. If such notices are not registered with the registrar of societies, they would not be able to restrict sale or transfer of such properties to bona fide buyers.

The buyer's advocate should also issue a public notice in at least two local newspapers, one in the English language and another in the local language. The notice should state that his client has agreed to purchase or is negotiating the purchase of the said property from the said seller. It should invite claims in the nature of mortgage, charge, lease, lien, easement, gift, trust or any other claim against the property asking them to notify the buyer's advocate within a specified time period with the supporting documents.

The notice should also state that if no such claim is received within the specified period, it will be deemed that no such claim exists or it will be deemed to have been waived. But remember though that any such notice is not binding on the real claimants to the property. However in case of a dispute, such a public notice shows that the buyer is a bonafide purchaser.

Enquiries should also be made with the Ward Officer in which the property is located to find out (i) if the

property or any portion of it has been notified under the Land Acquisition Act for any public purpose; (ii) whether any notice notification, action or claim is pending against the property; (iii) whether the property or any portion of it is included in the set-back; and (iv) whether the property or any portion of it is reserved for any public purpose under the Development Plan (DP) that is reserved for garden, school, hospital, development road or for any other purpose.

Responsibilities of the buyer

There are a series of pre-conditions that need to be fulfilled in order to obtain a clear title to a property. The owner of the property has to first produce all the originals of the title deeds in his possessions after which records pertaining to the property have to be searched from the specific offices maintaining them. Slight discrepancies in the title of the property can lead to immense problems in the future vis-à-vis rights that arise from ownership and possession.

Public notices have to be issued in newspapers inviting claims or objections from anyone affected in respect of the said transaction. Following the public notice, if an objection is lodged, the person should be asked to substantiate it within a stipulated period of time or else, ignored.

For a transaction to be considered valid in a court of law, it must be registered accordingly. The registration of a document serves as a notice of the transaction to those affected by it.

The seller has to clearly mention in unequivocal terms that there are no encumbrances or mortgages on the property being sold. Very often, several months after the deal has been struck, an unassuming buyer realises that the property purchased has been mortgaged to someone else and that he has been duped.

Often, in order to save on a little money, a buyer may ignore the registration aspect of a document. If a document isn't registered properly, it fails to confer any title to the buyer who could land with several problems.

However, mere registration of the document doesn't affirm its genuineness. Both the parties need to have executed the document and shouldn't be in dispute with regard to the transaction. The sole registration of a document very often is commonly misunderstood as being evidence of a transaction. This, however, doesn't provide whole and complete proof of execution which needs to be fulfilled.

Incidentally, for premises purchased in a registered co-operative society, a buyer needs to check a few documents before going in for the deal. The share certificate issued by the society to the owner has to be checked in order to authenticate the owner's credentials and standing in the society. Very often, the seller could himself be a sub-tenant in a society flat with the actual owner oblivious of the transaction. In that case, the seller would be unable to produce the share certificate in his favour.

And, in case the deed has been lodged for registration, the seller should be asked to produce certified true copies of such conveyance, sale deeds and other documents along with the original receipt of the Sub-Registrar where the document has been lodged for registration.

In case a buyer opts for a flat in a society that hasn't been registered, he should look for previous chain of agreements with past owners; Original stamped receipts of payments issued to the previous and present owners by the builder/development authority/society and transfer authorisation papers from the respective authority as well as a copy of approved plan and occupancy certificate issued by the civic body.

When acquiring any immovable property, the onus of making sure that the title of the said property is clear of all encumbrances lies squarely on the buyer. Buyers and their legal representatives should act responsibly to verify and investigate the title of the seller to the property. Ideally sellers should make out a clear and marketable title to the property. But generally, the buyer decides to buy the property from the seller on an 'as is where is' basis wherein the seller does not need to make a clear and marketable title to the property and he can then sell the property with any existing encumbrances.

As a general practice, during the conveyance formalities, when parties agree to enter into a sale or purchase transaction for a property, they enter into an agreement recording their intention to sell or purchase the property according to the terms and conditions recorded in the agreement. Once the agreement is executed, the seller immediately sends the property's original title deeds to the buyer or his advocate against a receipt. After it has been received, it is now the buyer's responsibility to keep these original deeds safe.

Maharashtra and Gujarat laws have introduced a number of provisions requiring registration of notices providing details of the pending litigations in respect to the property. If such a notice is not registered with the registrar of societies, then such pending litigations do not restrict sale or transfer of such properties to bonafide buyers.

Buyers and their advocates should follow some of the above mentioned guidelines to ascertain if the seller's title to the property is clear and free from encumbrance.

Gajanan Khergamker is an independent Editor, Solicitor and Film-maker. He is the founder of the International Think Tank DraftCraft.

Redevelopment: A reckoner on processes involved

A large number of cooperative housing societies are opting for redevelopment of their old, dilapidated buildings, today. To them, **Vipul Sheth** *provides a ready reckoner on the processes involved, and the homework that every society needs to do before entering into an agreement with builders.*

Redevelopment of properties of existing co-operative housing societies began a few years ago, and is now a popular way for demolishing old, dilapidated structures and constructing new in its place. Here, the new structures are offered free to existing members, while the additional plot/flats are sold by the builder/developer for profit, thereby unlocking value from the property.

In case of redevelopment, the considerations for existing members range from extra amenities to extra space in the reconstructed property that enhances the life of a building. Extra area allotted by the developer is just one of the myriad considerations offered to existing members. The construction of a fresh structure in place of an older one itself forms consideration enough for redevelopment.

A ready reckoner for redevelopment

For a redevelopment project, there are a series of objectives that need to be fulfilled in a particular order. Here goes a reckoner on how to go about doing it:

• Firstly, the members need to finalise the list of amenities that will be provided by the developer through the redeveloped project. After this, the tender documents need to be drafted, discussed with members of the committee and finalised.

• Once this is done, tenders both technical and commercial need to be invited from among developers after doing the technical evaluation and generating a comparison statement where necessary before short-listing a few developers.

• After the builders/developers are short-listed, joint meetings have to be held along with the committee members before finalising the most suitable developer for the project. A letter of intent, based on the terms negotiated with the concerned developer needs to be issued. The measurement of each flat and carpet area of each member has to be ascertained.

• Also, requirements of each member need to be taken down and tentative drawings prepared. A detailed survey too needs to be carried out. A list of solicitors, legal consultants and tax consultants needs to be drawn up for reference and legal action in the future.

• Agreement formalities between the society and the developer as well as between the society members and the developer need to be completed. The layout of the entire plot should be finalised; approved from the civic corporation and building files submitted accordingly. The society also needs to obtain CCs (Commencement Certificate) where necessary. Importantly, the plans to be finalised have to be as per member requirements. This has to be followed by obtaining approvals on finalised plans and CCs for the same.

• The members need to be shifted to a temporary accommodation while the project is afoot. The old structure and building need to be demolished after which a soil exploration takes place. This is followed by the construction of new

buildings and associated infrastructure such as access roads, recreational facilities, playgrounds, parks and compound wall with gate and concrete pavement and watchman cabin.

• The Occupation Certificate (OC) has to be obtained along with a permanent water connection and water supply metre. After this, the site has to be cleaned thoroughly and possession handed over to members after confirming the carpet areas of newly constructed flats.

Do your homework before entering into that redevelopment agreement

A redevelopment agreement, as the name suggests, is an agreement for the restoration of an old building between the residents and the developer. But, it's not as simple as it sounds; the housing society needs to exercise necessary caution to ensure that the residents' interest is safeguarded. "Even seemingly simple things such as getting the redevelopment agreement registered with the sub-registrar or then, paying proper stamp duty are very important in such a deal," says Navdeep Co-operative Housing Society secretary, Girish Pradhan.

In most cases, the developer negotiates the deal of restoring an old building with the managing committee of the society. "In which case, the onus is on the managing committee to ensure that the interests of the residents are protected and they need to take all the precautions," offers Pradhan. "It's advisable to discuss the agreement in detail at the general body meeting so as to arrive at a consensus about the terms and conditions in order to avoid later hassles," he maintains.

As with any property dealing, when it comes to redevelopment contract, it's of utmost importance to ensure that the developer has a sound reputation. "If possible, the members of the managing committee must visit the site of some of his previous projects, so that they get first-hand information about the developer," says the CHS secretary. Considering that the property of so many residents is at stake, it makes sense to seek the help of professionals in getting a clear picture about the agreement that the society is entering into.

Sound advice from professionals such as lawyers, architects, engineers before signing on the dotted line is sure to help the society make a responsible decision. It is reasonable to hire the services of a technical supervisor who can keep a check on the work done by the developer. In order to ensure the smooth implementation of such a contract, the respective obligations of the developer and the CHS members and the consequences of the breach, if any, need to be put down in writing clearly in the agreement. For instance, the time of completion of the project and the consequences of non-completion in the stipulated time must be specified in the contract so that the developer doesn't drag on the work.

Redevelopment modes and taxation

When a cooperative housing society undergoes redevelopment, their taxability depends on the mode of redevelopment they choose.

Self-Development

When a society appoints a developer for reconstruction and pays the developer to reconstruct it, there is no scope of income for the society. Very often in these situations, the society allots additionally constructed flats or floor space index to members at a subsidised cost, market price or even free of cost. In such situations, there will not be any taxable income to such members since they would be covered by the concept of mutuality. Individual members who choose to sell off any such additional flats though would be liable to pay tax in the usual manner.

Even in situations where the society decides to lease or rent the flats arising from the reconstruction for the rent and security deposit, the deposit would not be liable to taxation. Since the rent collected in such situations would be the income of the society under the 'income from house property' tag, this income could be set by collecting lesser or no contribution of monthly maintenance from members.

Common developer and individual members

When a redevelopment project generates additional flats as a result of re-construction, they may be made available to members with or without cost. In such situations, the individual members and not the society would be liable to pay tax.

Society contracts with a developer

In this situation, the society and the developer enter into an arrangement where the developer reconstructs the building of the society giving members their flats rebuilt free of cost or even pays an agreed sum to the society or individual members. In these situations, it's important to remember that the entitlement to balance FSI and the right to use TDR are assets that belong to the owner of the land. Under section 2(47) of the Income Tax Act, allowing a developer to use such rights would be considered as a 'transfer of assets.' The consideration received from the developer for such a transfer of assets would be taxable under Capital Gains.

As per the law, a duly registered cooperative housing society is the owner of the land and its buildings. And since the society is the legal owner, the consideration received for the transfer of assets would be taxable for the society even if the developer does not pay any consideration to the society and pays it to individual members.

Vipul Sheth is a Law Graduate interning with www.SocietyMatters.in – an initiative of DraftCraft International to educate and empower stakeholders and ensure the reach of laws affecting Housing Societies across India, in principle and practice.

Guidelines for AGM and SGM

Annual General Body meetings and Special General Body meetings are important events held in a CHS to plan its administrative affairs and apprise members on all issues pertaining to the welfare of the society. **Vaidehi Goyal** *discusses the basic framework that has to be followed at such meetings.*

General body meetings are an integral part of the functioning of any cooperative housing society (CHS) as all discussions and decisions pertaining to the society are taken in these periodical meetings.

Considering that every CHS is an autonomous body, the issues to be discussed in the meeting may vary. However, there's a basic framework that has to be followed. "For instance, in the first general body meeting of the CHS, the members have to elect the president for the meeting; elect a provisional managing committee; decide the admission of new members if some applications for membership are pending", explains Vishnu Sagar Cooperative Housing Society's secretary Ramakant Desai.

Incidentally, the first general body meeting of a society is convened by the chief promoter of the CHS within three months from the date of registration of the society. "The chief promoter gives a 14-day notice to all persons who have signed the application for registration of the society and are eligible to attend the first general body meeting," informs Desai.

That apart, the notice convening a general body meeting should always contain the subjects that are to be discussed and/decided in the meeting. "A member whose name stands first in the share certificate is entitled to attend the general body meetings. And in his/her absence, the associate member can attend the meetings," says Desai. No other person has the right to attend the meetings.

Quorum for AGM, SGM

The quorum for every general body meeting is two-third of the total number of CHS members or 20 whichever is less. "If there is sufficient quorum, the meeting is held as per the notice. But, if there is no sufficient quorum and the meeting was convened upon the requisition of the members, the meeting stands dissolved within half an hour of the appointed time," informs Veena Nagar Cooperative Housing Society's secretary Manish Parekh.

"Under any other circumstances, the meeting can be adjourned to any other time on the same day and place as stated in the notice. And, the reconvened meeting can proceed with the agenda even if there is no quorum," says Parekh. "However, if the meeting is adjourned to a subse-

quent date, the date should not be earlier than seven days or later than 30 days," he adds.

Besides, under special circumstances, a special general body meeting of the CHS may be called either by the chairman of the society or by the decision of majority of the members of the committee. "If one-fifth of the members submit a requisition for a special general body meeting, the secretary has to convene the meeting," maintains Parekh.

Though generally a special general body meeting is convened with five days' notice to the Registrar, in case of an emergency, the meeting can be called on a shorter notice provided all the members of the committee make a unanimous decision. "The decisions taken in the special meeting have to be communicated to all the CHS members in writing within two days of the meeting," says Parekh.

And, if there is a situation when the Registrar calls upon the CHS to convene a special general body meeting to transact any business, the secretary has to convene the meeting; and, that too within one month from the date of receipt of such requisition.

It`s a special meeting!

Besides the regular general body meetings, there're certain occasion when a cooperative housing society may need to have a special general body (SGM) meeting of the society. If and when, such a situation arises, there're certain important formalities to be followed.

"A special general body meeting can be called by the secretary of the CHS only with the prior permission of the committee and that too, within five days from the passing of such a resolution by the committee," informs Anand Vihar Co-operative Housing Society secretary, Ajaykumar Mathur.

"In case of an emergency or an urgent situation, the secretary can call such a meeting within forty-eight hours, if the committee unanimously decides to call a special general body meeting urgently," he adds.

Incidentally, the secretary of the society has to issue a notice convening the special general body meeting in accordance with the bye-laws of the society. "And, if the secretary fails to issue the notice, then the onus is on the chairman to issue it," says Mathur.

Suppose the CHS secretary or the chairman does not call a valid special general meeting, despite the instance of one-fifth members of the society, any ordinary member of the society has the authority to call a special meeting. "Provided s/he gives a ten-day notice of such a meeting to the society members," offers the CHS secretary, who goes on to add that the president of the society presides over such meetings.

And then, as per law, the Registrar also has the power to declare such a managing committee member, who fails to perform his duty of calling the special general body meeting without any reasonable justification, disqualified for default up to three years.

"The Registrar can also call a special general body meeting of the society in case the members fail to call such a meeting without any justification," says Adarsh Niwas Co-operative Housing society secretary, Pradeep Sahay. In such cases, the expenses incurred for calling the meeting is either paid out of the funds of the society or by such a person or persons who, in the opinion of the Registrar, was/were responsible for the failure to convene the meeting.

The procedure to decide on an issue raised in a special general body meeting is much the same as in the case of a regular CHS meeting. "Under ordinary circumstances, decisions at the special meeting are decided by simple majority of the members who are present at the meeting," informs Sahay.

While each member has a vote to cast when the election on any issue is raised, the president of the meeting has a casting vote in case of a tie. "Another important thing is that the associate member has a right to cast one vote when his first member is absent at the meeting, but the nominal or sympathiser member doesn't have a right to vote," offers the CHS secretary.

Resolution at AGM precedes change of CHS name

In order to change its name, a society must first pass a resolution at a general meeting and then, with the approval of the Registrar, change its name.
However, such a change shall not affect any right or obligation of the society, or if any of its members or past members or deceased members and any legal proceedings pending before any persons, authority or court may be continued by or against the society under its new name. Where a society changes its name, the Registrar shall also amend the certificate of registration accordingly.

The name suggested for change should not refer to any caste or religious denomination and should surely not be inconsistent with the object of the society. Every change in the name of the society shall be made by an amendment of its bye-laws and shall be notified in the official gazette.

After the change in the name of the society is approved by the Registrar, the society shall send the original registration certificate for amendment to the Registrar, who shall return the same to the society duly amended. The Registrar shall enter the new name in the register of the society maintained by him.

Vaidehi Goyal is a legal researcher with www.Society-Matters.in – an initiative of DraftCraft International to educate and empower stakeholders and ensure the reach of laws affecting Housing Societies across India, in principle and practice.

Common issues affecting societies

There are many issues that affect members of a cooperative housing society, and if not resolved they can end up in disputes. Following rules on repairs, sharing of costs, parking, etc., that have been stipulated in the Model Bye-laws of a CHS, can help in smooth functioning of a society, writes **Gajanan Khergamker**.

According to Bye-law no. 160 of the Model Bye-laws, the Cooperative Housing Society should carry out repairs to the terrace, all leakages of water and roofs of the flat and ceiling and the plaster thereon on the top floor affected on account of the leakages of the rain water through the terrace, at its cost. No other member, top-floor member or otherwise, must bear the expenditure in full or part.

In case the society fails to do so, any affected member of the society can, after giving due notice to the secretary and managing committee of the society of the same, on his own accord carry out the repairs to the terrace. However, he should give proper opportunity to the society to conduct its own repairs and can claim expenses from the society.

Lift charges equal to all

The recovery of lift charges and use of the same continue to bother a lot of cooperative housing societies (CHS) across Mumbai. However, the law is very clear on this. Under Section 69 (a) (iv) of the New Model Bye-laws, it is clearly mentioned that all members should bear lift expenses equally. It has also been clarified that payment should be made by all members whether they avail the lift facility or not.

The rationale behind this is the same as that goes into societies charging service charges equally to all members irrespective of the size of flat/room they reside in. After all, it enhances the value --- both aesthetic and commercial --- of the CHS in question, doesn't it?

As the reasoning goes, when you finally decide to move out of this place, it'll fetch you a lot more if the structure has a lift than otherwise.

Minutes should be exact, accurate

According to the law, a minute-by-minute account of the meetings, proceedings and resolutions taken and rejected at the meeting have to be recorded. Minutes, as the very term suggests, comprises a minute-by-minute account of the meeting answering what happened, when did it happen and who was involved.

It should be recorded in the minutes book which serves as legal proof and evidence of all the members of the society and concerned parties. It is the onus of the secretary of the society to write down minutes of all the meetings of the general body.

The committee should finalise the minutes of every general body of the society within three months of the date of the meeting and circulate them among the members within 15 days of the meeting of the committee at which the

draft minutes were finalised.

If there are any discrepancies in the draft minutes, the member can, within 15 days of receipt of the draft minutes circulated, write to the secretary about the changes to be included. The committee at its subsequent meeting shall finalise the minutes after taking into consideration the changes/recommendations suggested.

NOC cannot be levied on a family member

Many homeowners invest in property and gain an ongoing income by sub-letting and renting out their properties. But before sub-letting or renting out a property or properties, it is important to remember that no member of a cooperative housing society can sub-lease or give his flat on leave and license basis or give his flat on a care-taker without the express permission of the society.

Any member wishing to do so should let the society know of his intention and only after obtaining a receipt of the committee's permission in writing can he carry out the said activities. This also applies to members who give only part of their flats out on rent in the form of paying guests.

Members wanting to sublet their flats should first make an application in the prescribed form. In the application, they should apply for nominal membership of the proposed sub-lettee, licensee or care-taker. Members should also give an undertaking to the society, in which they agree to continue paying the society's maintenance charges during the period of sublease.

The society though cannot levy non-occupancy charges if the flat is being occupied by the 'family' of the member as defined under these bye-laws. This includes mother, father, sister, brother, son, daughter, son-in-law, brother-in-law, daughter-in-law, grandson, granddaughter and any other relations of a member.

The managing committee of a society can also have a say about the length of time a flat can be given on leave and license or sub-lease and restrict the period to only eleven months. This period can be extended to a similar length or a part of it on the request of the member. Bye-law number 65 expressly states a proper procedure for the correct disposal of an application made by a member for the purpose of sub-letting, renting or leasing his or her flat. The secretary and the managing committee of a society should make sure that this procedure is always followed properly.

Non-resident Indians (NRIs) holding Indian passports generally have permission from the Reserve Bank of India (RBI) to purchase property in India after submitting the required document proofs. Once members of a cooperative housing society, these NRIs can also sub-let their flats, but the rental income received cannot be remitted outside the country and has to be credited to an ordinary non-resident bank account.

Parking issues

One of the most common issues that have to be dealt with in almost every co-operative housing society is that of parking. Often CHS members are not aware of the hows and whys of the allotment of parking space within the society…and, that's what leads to most of the parking-related problems.

Incidentally, there're some very basic rules and regulations vis-à-vis parking space in every CHS that every member must be aware of. For instance, though a member, having a motor vehicle, is eligible to have a stilt or a parking space, under normal circumstances, no member is eligible for being allotted more than one parking space.

No member is entitled to utilise more parking spaces/ stilts than what was allotted to him by the society or was purchased by him. It happens only in cases where, if some space remains un-allotted for want of applications for allotments, a second or third parking space may be allotted to a member who already has been allotted a parking space. Such additional allotments are made on year-to-year basis, provided the same is not required by another member, who has not been allotted even a single parking space. And, in case the number of vehicles of CHS members exceeds the available parking space, the managing committee allots parking space by "lot" on a yearly basis.

The allotment of parking space is usually made by the committee on the basis of 'First Come First Served' for unsold and available parking spaces. There's a very simple procedure for a member to obtain parking space in a CHS. All a member needs to do is make an application for parking space to the secretary of the society furbishing necessary details. Then, the secretary and the managing committee of the society can do the needful to accommodate the member's need. Besides, it's the duty of the managing committee to ensure that the space is used by the members only for the purpose for which it is allotted to them. Most CHS number the parking space in such a way that no inconvenience is caused to any of the members who've been allotted the parking space.

Another point of contention is the payment of parking charges. Every member, who has been allotted a parking space, is required to pay parking charges decided in the general body meeting of the CHS, irrespective of the fact whether the member actually parks his vehicle in the allotted space or not.

Gajanan Khergamker is an independent Editor, Solicitor and Film-maker. He is the founder of the International Think Tank DraftCraft.

CHS membership, restrictions and validity

When does a person cease to be a member of a cooperative housing society? Can a member hold more than one flat in a society? What are the general restrictions on members of a CHS? **Siddharth Thakur** *attempts to answer some of these questions pertaining to housing societies.*

A cooperative housing society (CHS) member needn't be a member for life. Unfortunately, not many people seem to be aware of this. As per law, there're quite a few circumstances under which a person ceases to be a member of the CHS.

"For instance, if a member offers his resignation letter to the society and the managing committee accepts it, then he ceases to be a CHS member," says Anand Niwas Co-operative Housing Society secretary Rajeev Bhatia.

"Even if the member transfers all his shares and interest in the property of the society or say, in the case of the member's death, the cessation occurs," he adds.

Legally, cessation of membership can also take place if the member is adjudged as an insolvent or legally disabled from continuing as member. This happens also if the whereabouts of the member are not known for a period of seven whole years at a stretch and, if his shares and interest in the property or capital of the CHS is not claimed by anybody else.

Similarly, a person also ceases to be a CHS member on his expulsion from the membership of the society. "You know the basic duty of a CHS member is to safeguard the interests of the society, so anyone whose actions are detrimental to the interests of the society can be expelled," maintains Bhatia.

"A CHS is entitled to expel a member if s/he brings disrepute to the society or has done something that's damaging to the interest of the CHS – say if a member has deceived the society by giving false information or using his flat for immoral or illegal purposes," offers the CHS secretary.

During such instances of cessation of membership, it's the duty of the managing committee of the society to record the facts of the case in the minutes of its meetings. "And accordingly, the secretary of the society then informs the concerned members in writing within seven days of the date on which such a decision was taken by the committee," informs Laxmi Co-operative Housing Society secretary Sanjay Sharma.

The same procedure takes place in the case of the cessation of memberships of associate members as well as nominal members of a society. Much along the lines of a member's cessation from the CHS, a person ceases to be an associate member of the society, generally when the original member ceases to be a member of the CHS or on the death

of the associate member.

"Under certain circumstances, the associate member may submit his resignation, which may be accepted by the society or then, the associate member ceases to be a part of the society on intimation from the original member of termination of the occupant's nomination," says Sharma. Incidentally, under similar circumstances, even the nominal member - the sub-lettee, licensee or caretaker or possessor in any other manner of the flat - ceases to be a member of the society.

CHS restrictions not many know about

When it comes to rights and liabilities most co-operative housing society (CHS) members are at least aware of them, but unfortunately, that's not the case with most restrictions that are binding on members.

Consider the restrictions on holding more than one flat in a CHS, for instance. Under the Bye-laws of the Society, it has been provided that no individual member of the CHS shall be eligible to hold more than one flat, in the area of operation of the society in his name or in the name of any of the members of his family without the previous consent in writing of the committee of the society.

The member who desires to hold the additional flat needs to make an application to the secretary of the CHS in the prescribed form, giving adequate justification for holding the additional flat. The same procedure needs to be followed in the case of members wanting to exchange flats.

Incidentally, there're certain restrictions on CHS members who wish to sublet their flats. In order to sublet one's flat or give it on leave and license basis, the member has to make an application to the society and receive a written permission for the same. And the member must satisfy the committee about his inability to occupy the flat for some genuine reason.

Similarly, a CHS member has to obtain permission of the committee in writing in order to make any additions, alterations or repairs in his flat. After that, the CHS secretary and the committee members consider the application for which they may, with prior intimation to the member, enter his flat to examine its condition for ascertaining the necessary repairs, if any.

And then, there're certain general restrictions on CHS members such as they cannot do anything in their flats which may cause nuisance, annoyance or inconvenience to any of the other members in the society. Legal action can be taken against the member if the act is wrongful and causes some loss or inconvenience to other members.

A CHS has the right to make certain rules and regulations that must be abided by all the members in order to ensure the smooth functioning of the society. For instance, some societies have restrictions on the playing of games in the society's compound, the use of building terrace, cutting trees in the compound of the society and the like.

Societies should fix up the hours during which members' children can play within the compound, in the general body meeting of the society. Penalties can be imposed on those who don't comply with the restrictions. However, such decisions are taken by majority voting in the general body meeting after taking into consideration a number of factors like the building's location, surrounding environment, available play-space for children, etc.

Validity of CHS membership

In order to ascertain the validity of a person's application for membership in a society, it's important to understand the concept of competence in order to figure out what makes an individual competent enough to enter into a contract under the Indian Contract Act, 1872.

It's only when a person is competent – not a minor, not of unsound mind or an insolvent – that his consent, on the face of it, is free. Else, he will be eligible for membership of the society through his guardian or legal representative.

And then, if his consent has been obtained by fraud, conceit, misrepresentation, mistake or coercion, it gets disqualified and subsequently defeats the contract itself.

That apart, one who resides or intends to settle down and reside in the area of operation of the society and does not own a house, a plot or a flat in his name or in the name of any members of his family, in the area of operation of the society, or owns it but gives an undertaking under the bye-law No 19 (vi), will be eligible for membership of the society.

A minor or a person of unsound mind, inheriting shares and/or interest of the deceased member in the capital/property of the society, will be eligible for membership of the society through his guardian or legal representative, on an application of the prescribed form, along with the undertaking/declarations, in the prescribed forms, mentioned in the application.

Notwithstanding anything contained in these bye-laws, admission of a person to membership of the society directly or as a result of transfer of shares and interest of the existing member in the capital/property of the society, shall be subject to the approval of the Collector of the District, if the society has been given land by the Government. Family 'means and includes husband, wife, sons having no independent source of income, unmarried daughters and person/persons dependent on the member'. Signatories to the application for registration of the society shall be deemed to be members of the society after its registration.

(continued on page 16...)

When watchdogs turn criminals

Serious crimes such as murder, molestation and thefts involving security guards have been on the rise in the city in the last few years. Employing security personnel in a CHS is not an insurance against crime, says **Siddharth Thakur***, stressing the importance of checking the credentials of the guards thoroughly before appointing them.*

In 2012, a 25-year-old young lawyer and national-level swimmer Pallavi Purkayastha was brutally stabbed to death in her Mumbai home. A court found a 22-year-old security guard of her building Sajjad Ahmed Abdul Aziz Mughal guilty of assaulting, molesting and killing her. He has been sentenced to life imprisonment after confessing to his crime.

On Jan 9th 2009, a security guard robbed film producer Sajid Nadiadwala and his wife Wardha at gunpoint of Rs.10 lakh in cash and Rs.40 lakh jewellery. Three days later, the culprit along with two other accomplices was nabbed. The police recovered Rs 7.1 lakh in cash and the full Rs 40 lakh worth jewellery, and the state initiated action against Tiger Security which had deployed the guard.

In February 2011, the Vakola police arrested a school security guard on charges of raping a three-year-old student. The child was a junior KG student of a Mumbai school. The security guard, Telam Singh, who worked at the school for three decades, reportedly committed the crime in a toilet in the school.

In 2011, the Pune crime branch (rural) claimed to have solved the rape of 29-year-old employee of Hindustan Unilever Limited (HUL). Police arrested a 22-year-old security guard who was posted in the private valley owned by the Sahara Group. The accused, identified as Dharmendrakumar Rambhau Chaudhari was an employee of Front Line Security Guard Company and was residing at the Valley, but is a native of Hathras district in Uttar Pradesh. He had been working at Amby Valley for the last two years.

In all the above incidents, the crimes were committed by security guards appointed for safeguarding people and property.

In the case of senior journalist Jyotirmoy Dey, who was shot in broad daylight on a bustling Powai road, what was shocking was the fact that despite scores of witnesses not a single person came forward to testify against the assailants. There were security personnel in and around the area…guards and watchmen outside ATMs, even food courts, but all maintained a stoic silence.

Whether the assailants belonged to an underworld gang or were hired killers; or the act triggered by personal enmity or work-related rivalry, the fact remains that the prospects of a common man's security in the city are highly suspect.

Check the credentials of security guards thoroughly

Mumbai's police are usually very swift to insist "you" provide details of your domestic help that include a photograph and proof of residence and identity to the nearest police station "to insure yourself against crime." Conveniently disregarding the string of incidents that point towards the soaring rate of crime, the city police continue to turn a blind eye to the verification and authentication processes that ought to precede the appointment of 'security guards and watchmen in residential and commercial premises throughout the metropolis.'

Despite a surge in the number security guards in just about every housing colony and society in the city, the incidents of crime soar unabated holding the city's peace at ransom.

Under the Private Securities Agencies Registration Act (2005), security agencies are mandatorily expected to be registered with the state Home Department and need to provide basic training to their employees in safety measures, crowd control and fire-fighting during emergencies. Just a

fraction of the swarm of security services employed are registered with the state Home Department with most of them carrying on their 'business' at sweet will.

Employing security personnel is no insurance against theft or crime. Most of them are not even trained for the job. The Home Ministry just has to issue orders to the Mumbai Police Commissioner who may act *suo moto* making it mandatory for the city's cooperative housing societies to ensure the registration of their security services and guards with the local police station.

Unless you are certain about your watchman's credentials, having him keep a watch on your family's movements is asking for trouble. After all, he knows just when your elderly parent, daughter or child is alone and vulnerable and it's easy to attack. When a guard commits a felony, all he does is pack his bag and scoot out of the city and there's little reason for him to feel any sense of fear in doing so. After all, nobody has even bothered to ascertain his identity or origin. The security agency employing him is only concerned with the commission it draws from his salary and the society lives in a fool's paradise assuming that its people are safe and secure...till one fine day a crime is committed.

Housing societies across Mumbai sadly tend to overlook issues of security. Whether it's the 26/11 terror blitzkrieg on the city that left hundreds dead or the murderous attack on the journalist, one thing stands. Suspect elements keeping a watch on a potential victim's whereabouts and movements, and ought to have been nabbed earlier itself thereby averting the crime. But that, in itself, isn't as easy as it sounds.

By law, besides being forced to do just an eight-hour shift, a guard is entitled to a weekly off too. You can't make a watchman work for 12-hour shifts for days on end without giving him a break. It has been decided that if a Security Guard is found sleeping while on duty or not found at his work place at the time of night checking by the Inspectors of the Security Guards Board for Brihan Mumbai and Thane District, the concerned Security Guard will be liable to fine for such misconduct, equivalent of four (4) days' wages.

But then, with motivated authorities more than keen to turn a blind eye to the sleepy activities of watchmen, the law is given the convenient go-by. This anomaly gathers further momentum with the absence of authorities to regularise the guard-society arrangements. There is also a pressing need to keep identity records of watchmen/guards working at societies through the intervention of the local police who should be involved at all times.

Cooperative housing societies risk life and property directly by employing shady fly-by-night security agencies to provide them services at low cost and untaxed/unbilled arrangements. Worse still, they don't bother checking their credentials. While the instances of watchmen and security personnel directly involved in acts of brutality, murder and robbery targeting the very members they are supposed to protect are on the rise, society officials continue to flagrantly

WHO AM I?

violate the law governing security personnel which is well in place too.

While, cooperative housing societies, on their part, are not covered by The Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981 that was passed with retrospective effect from 29th June, 1981 as they don't qualify as either 'factories' or 'establishments' under the law and hence don't have to complete any formalities. That however, doesn't stop them from scrutinising the credentials of the security agency making tall claims of having offered services to factories / establishments / shops / commercial chains. The agency has to be registered – by law - with the Security Guards Board of Brihan Mumbai and Thane District.

Under the act, both the Principal Employer and the Employer Agency have to get registered with the Board. The security guards of the employers should open their individual Saving Bank Accounts in Union Bank of India which is near to the place of their posting. After opening individual Saving Bank Accounts, they should submit the list of their Account Numbers along with their name and registration numbers to the Board. The cheques of the payment are distributed from 5th to 12th and thereafter on Tuesday and Friday upto 25th of every month on receipt of Wages and Levy cheques by the Board. Even for disbursement of cheques, the guards need to present their identity cards.

A list of office orders for the security staff for factories and establishments includes:

• The Security Staff must report for their duties atleast 15 minutes early, so as to take charge properly.
• The Security Staff shall be in proper and clean uniform and cleanly shaved while on duty.
• The Security Staff shall behave politely, attentively and in disciplined manner while on duty.
• No Security Guard shall leave his respective check post unless/otherwise asked by his immediate Superior in the Shift, failing which the Superiors shall be held responsible.
• The Security Staff shall preserve their Identity Cards, while on duty and while coming to the Office of the Board.
• No Security Guard shall leave his duty unless the reliever or the next shift Security Guard relieves him.
• No Security Guard shall proceed on leave or remain absent without prior sanction or intimation to the Management.
• Leave application shall be forwarded to the Board in prescribed form devised by the Board.
• Leave application for more than four days shall be submitted through Unit In-charge and Management, such application with their recommendation should be sent to the Board atleast seven (7) days in advance, so as to make necessary arrangement for substitute. The Security Guard shall proceed on Leave only after confirming sanction of his leave.

Sounds like a tall order isn't it, at least for the present lot of watchmen we're forced to deal with? But then, that's the law, well in place for you.

All that the authorities need to do is establish the credentials of the security staff by visiting any of their 'factory' or 'establishment' sites and double-check their claims; insist on copies of documents that they have provided the police while applying for a license; draw up a detailed legal agreement between the society and the agency enlisting the list of pertinent office orders among the string laid down by the statute with list of corresponding penalties and ensure it delivers.

Siddharth Thakur is a Law student volunteering with www.SocietyMatters.in – an initiative of DraftCraft International to educate and empower stakeholders and ensure the reach of laws affecting Housing Societies across India, in principle and practice.

CHS membership, restrictions and validity

(continued from page 13...)

The number of members in the society shall be limited to the number of Flats available for allotment. A firm registered under Indian Partnership Act, 1932, a Company registered under the Societies Registration Act, 1860 or a Cooperative Society registered or deemed to be registered under the law for the time being in force, as provided under Section 22(1) (b), (c), (d), (e) and (f) of the Act, may be eligible to Membership of the Society.

However, admission of firms and companies to the membership of the society and allotment of flats to them shall be regulated in accordance with the notifications issued by the State Government from time to time under the Second Provision to Section 22 of the Act.

As per Model bye-law no. 18, a Public Trust can be admitted as a member of the society. It may, however, be kept in mind that if the flat is allotted for a residential purpose, the Public Trust cannot utilise the same for commercial activities.

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KOLKATA`S VANISHING CHINATOWN

Almost 200 years ago, Chinese immigrants made Kolkata their second home. Though the Chinese population today is dwindling, the community`s bond with the city are deep and everlasting, says Manjira Majumdar as she tries to connect the dots between the past and the present.

Text & Photographs : Manjira Majumdar

(Above) Mild wanton soup with pak choi leaves
(Below) A notice on 'La Ba porridge' also called 'Buddha porridge'

No, the Chinese did not invent the game of Chinese Checkers; they have another version of the same game. And the only Chinaman that you may see today in Kolkata is during a cricket match at the Eden Gardens; when a bowler delivers a 'chinaman'; an unorthodox delivery. But Kolkata`s connect with the Chinese goes back a long, long way. The bonds are deep and everlasting, only you have to re-discover the ties as you visit certain city pockets, which they made their second home.

A tide of Chinese immigrants came to India in waves, mostly to Kolkata, over two hundred years back. Till the time they began to re-migrate, not to China but Canada, since the sixties and seventies. Today this dwindling Chinese population of the city is not to be confused with Chinese expatriates who belong to Mainland China and are working in Chinese companies in India.

The Chinese Indians of Kolkata

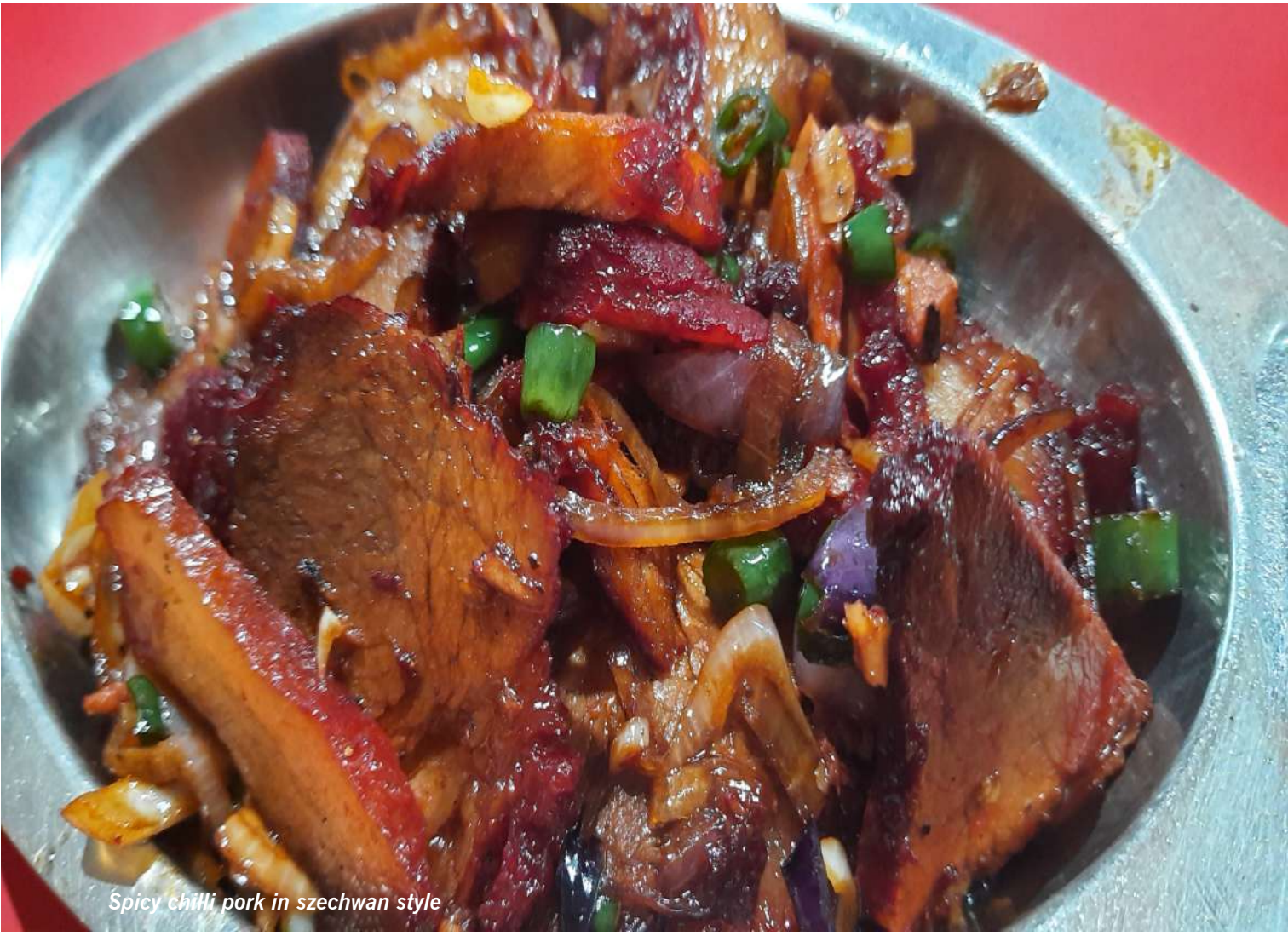
The first recorded Chinese in India was Tong Achew, a trader who landed near Budge Budge, near Kolkata in late 18 th

century. He was granted some land by the British on which he set up a sugarcane plantation in addition to a sugar factory. It is reported that he arranged for Chinese workers to work at both the land and factory. When Achew died, the workers moved to the city and founded other jobs.

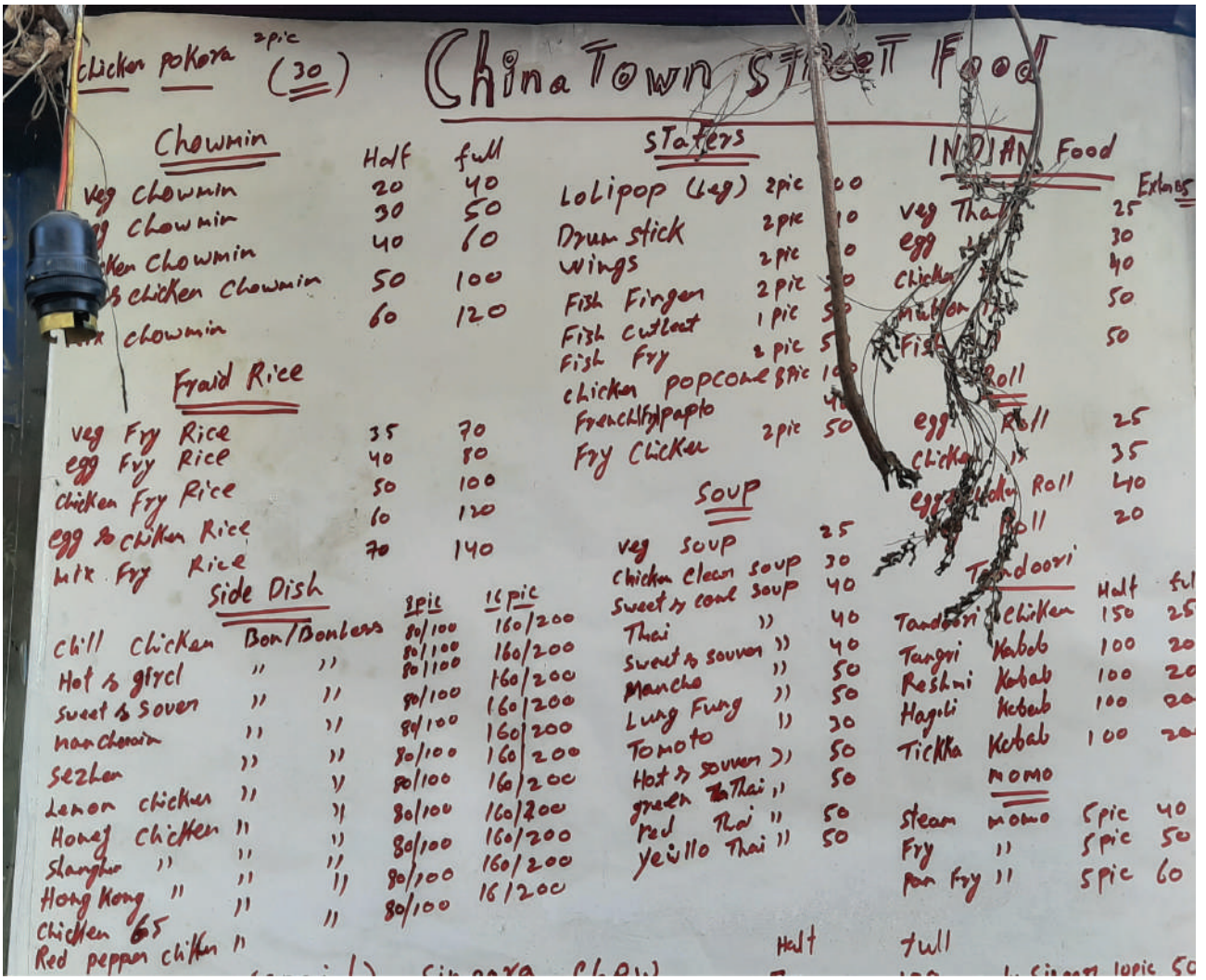
By then other Chinese immigrants had begun to arrive due to the sea route between the two countries being opened up to facilitate opium trade. A Parsee businessman displaying his antique blue Chinese porcelain vases had once informed me that due to trade and ships plying between the two ports of Calcutta and Shanghai, the ships took the goods from here while the empty ones from there brought back decorative items, ginger, jade and Chinese silks. These opened other avenues of trade and commerce. Chinese Indians today are located in basically two pockets in the city. One in central Kolkata and the other in the eastern part; what was once a fringe area of swamps and marshlands, known as Tangra.

This is the area where the leather tanneries began to be set up by the Chinese to cure dead leather and hand craft shoes. The shoes were sold through stores lined up along Bentinck Street, named after Lord Bentinck. It went right up to Chitpur Road, a fascinating road in itself and starts from the area known as Poddar Court region. This building acts as landmark for the business area that intersects with Dalhousie, the central business and administrative area with the northern part of the city, wending itself to Howrah, connected by the famous bridge.

The Chinese became a strand in the tapestry that comprised other communities, adding to the cosmopolitanism of British Calcutta. They came from outside but stayed on, till they started to leave again for greener pastures after the country's independence. A huge chunk of these communities were made up by Baghdadi Jews, Armenians and several Muslim communities who migrated to Pakistan – East and West. The Chinese community pursued professions according to the district they belonged to back home; the Hakka community was in majority and they mostly set up restaurants and beauty parlours. The Cantonese, also known for their cuisine, set up small sauce and noodles factories, the two staples items in their diet. Tanneries, dentistry, carpenters,



Spicy chilli pork in szechwan style



An elaborate Chinese menu at a roadside stall

laundry and acupuncture specialists were the other areas they specialised in.

The past and the present

So what was the Chinese culture like and how did they live their lives in a city far away from home where the weather, staples like rice and fish were familiar, but not much anything else, especially the language. Often words like Ching Chang were rudely used at them by the locals who found them so different in looks.

But within the 'Chini' locality they felt safe. In fact, during the opium trade between India and China, it was whispered there were opium dens within the dark alleys of China Town, often figuring in books written around crime and detection. But to the people of Kolkata, the Chinese represented their wonderful light cuisine, hair stylists and hand crafted shoes. Long before Jimmy Choo ruled the fashionable international shoe market, Kolkata had its long rows of shops selling fashionable shoes for men and women; some of these located inside New Market were the

Chinese sign boards

preferred choice of the fashionable Anglo-Indians and anglicised Indian women. Growing among a Chinese neighbourhood, I remember Mr. Wong who owned 'Athat Shoes' telling us that Rabindranath Tagore and Sir Ashutosh Mookerjee patronised his shop! There were other shops, with names such as JenKee, D'Sheen and Kowloon. Gradually they lost out to competition against better brands.

A walk through the famous 'Tiretti Bazaar' and China Town helped us in connecting the dots of the past Chinese with the present population. The Bazaar was named after Edward Tiretti, who was an Italian working with the East India Company. Hours before the area comes alive with office goers, businessmen, and policemen trying to grapple with chaotic swirling traffic, the Chinese men and women, of whom a very small number is left, set up rickety tables while Chinese women in their traditional *mamasam* literally meaning mummy's dress, a functional trouser suit, (the cheongsam being the more formal gown with a slit one side) spread their lovingly prepared homemade delicacies on these. Steaming dim sums and other Chinese snacks, very moderately priced, are on offer. Breakfast over, many non-Chinese shop around for exotic vegetables like the small red Chinese cabbage or tightly packed hum choi or pak choi leaves; sometimes dried in the sun.

Extremely resourceful, the Chinese flourished in areas they have traditionally been very good at; namely skills they could fall back upon in a foreign country. Calcutta Chinese cuisine was considered something you had to taste on a visit. Served in spartan surroundings or plush interiors of figures of smoking dragons and laughing Buddha, the business was on top of the list. Our visits to central Kolkata revealed only a smattering of Chinese-owned restaurants. In Tangra, however, there are more restaurants because the Government's pollution control notified them to vacate the tanneries to a place that is more outskirt. The reason being the effluents from the chemicals to treat tanneries pollute the area, more so as the area is being devoured by land sharks. Several tannery owners opened up restaurants.

In hybridised forms, Indo-Chinese cuisine is the

A Chinese house with lanterns

community's legacy – sold from roadside kiosk and multi cuisine restaurants across the country incorporating the use of rice, noodles, stir fried vegetables and crispy meat. Of all school of cooking, Szechwan is said to be the spiciest. Settlers in the city 'Chinese China Town' swear by the Cantonese preparations, whereas the Hakka cuisine is predominant in Tangra China Town though we can always order and eat a mix and match platter. The Chinese Chimney soup comes closest to the Mongolian and Vietnamese hotpot.

The famous Chattuwalla Gali in central Chinatown, which once throbbed with a Chinese way of life, is today missing. A Chinese newspaper published by one C.J Chen, catering to the community, was published from here. A little away at Dharamtalla was Grace Ling Liang Chinese school (now shut) and Chung Wah restaurant (now no longer Chinese-owned), with further up on Park Street was Peiping restaurant. We caught a glimpse of a store selling various Chinese sauces, and a shoe shop in addition to a Chinese church or temple.

Tongoon cemetery

Chinese Kali mandir

A shop to source your Chinese sauces

On the other hand, our walk through Tangra Chinatown revealed glimpses of Chinese houses and the famous Chinese Kali Mandir. Herein is a history within history. Originally Buddhists, the Chinese put their children into a Chinese school during their earlier years, but were later admitted to Christian missionary schools as they converted to Christianity, taking Christian names. But interestingly, they also worship goddess Kali, besides Chinese gods and goddesses, offering noodles as prasad.

The Chinese New Year celebrations

We spotted a few leather factories or tanneries, a cemetery and several buildings with Chinese names. Some interesting bits and pieces of Chinese life were noticeable though no Chinese wanted to be photographed. The area comes alive during the Chinese New Year in February, when the city joins them in feasting on many Chinese delicacies. No article, on the Chinese is complete without the mention of the Chinese New Year when the whole city celebrates as it were.

Lion dance at the Chinese New Year celebrations

Chinese New Year is elaborate but is now restricted to a few days only. In the past, it lasted for a week. It comes with a pre-requisite of cleaning homes and appeasing the kitchen god who is said to go up to Heaven prior to the festival, and report to the Jade Emperor about each home. He is symbolically offered sticky sweet things, so that he will have only flattering things to say. Chinese women stayed up late nights preparing *ma faa*, the Chinese confectionary made with flour, sugar and eggs and dipped in colour. Never was a festival so full of colour, sound and taste. Big red candles are lit and offered along with the food, as joss sticks are burnt to appease the gods.

The famous dragon dance happens on the day of the New Year, usually in February. The dragon is a bit of a misnomer for lion masks are usually used for this dragon dance, which is a symbolic way of depicting the triumph of the good over evil. The lion masks are considered auspicious and are also used in other auspicious events in Chinese dominated countries. In Kolkata it dances only once during the Chinese New Year, when China Town in Tangra is illuminated.

Known as *mausee*, the masks are exquisitely hand crafted by young Chinese men inside Chinese schools months before the New Year. It has an elaborate colourful

(Right) The entrance to China Town
(Below) A Chinese Church

A Chinese shoe store – though no longer are shoes hand crafted

head that comes with a long trail, which is really the tail, made of paper, bits of cloth, wool, lacquer and bright paints. Two young men get beneath the costume of this head and the tail respectively and sway to the beat of drums carved out of wood, played to the rhythm of a gong and cymbals. Legend has it that it was a beast – nien – that came down from the mountains to prey on the people of the plains of China. It was frightened away by the colour red and the noise made by the villagers by beating on their pots and pans.

The Chinese kept within their own community as is usually the case with any immigrant community, except in schools and for business transactions. They functioned through their associations, their clubs and their own hand-produced newspaper; their local representatives maintaining close government contacts.

A Chinese decorative item

Capital of China? Step in for a hearty meal

It has not always been a smooth ride for the Chinese Indians of Kolkata. But the city can, however, rightly claim to have offered them refuge when they needed it; many of us remember them with fond nostalgia now that they are mostly gone. China as a country has taken great strides towards modernity and progress. The Chinese overseas community is well connected and active, with many elders making a trip back to their ancestral land, something they could never have imagined even a couple of decades back.

According to a feature in The Telegraph on November 3, 2019, "They (Chinese) are dwindling in number. There are 2,000 to 2,500 of them in the city today. Half a century ago the number was double that. Half a century on will there be any Chinese left in this city? There's a high chance they might vanish." This according to Thomas Chen, a young Chinese still left in the city.

India's ties with China have re-awakened various cultural interests. Durga Puja at a certain block in a township, adjacent to the city, replicated a pandal in keeping with a Chinese village in 2018. However, Achipur, a small suburb still exists in Budge Budge, with a memorial in the memory of the first recorded Chinese immigrant to the city. Come February and Chinese New Year, whoever is left in the city will perhaps pay their respects, with peanuts, oranges and red candles to Achew.

Having worked as a full-time journalist, Manjira Majumdar today is an independent journalist combining writing with part-time college teaching and media advocacy. She is also the author of 3 children's books: Ten of Us, The Story of Anjana and Ghost Stories from Bengal & Beyond.

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"Run Kalyani is about women, women with dreams, desire and duties."

J. Geetha started as a print journalist and film critic, later moving to television. On acquiring her own video camera, she made her first film Woman with a Video Camera (2005) from Kerala that had hardly any woman filmmaker then. She then founded 'AkamPuram', an independent production company that has a distinctive slate of films to its credit.

Geetha received the Göteborg International Film Festival's Development Fund for her first script *A Certain Slant of Light* (2008). However, lack of funding for feature fiction only meant a focus on writing scripts and a return to documentaries as producer. She attended the Berlin Talent Campus in 2009. Her second script *End Game* was at the Co-Production Market (2014) at Film Bazaar.

Run Kalyani is her debut feature fiction set in Trivandrum, Kerala, and was part of the *Work In Progress Lab* (2018) at Film Bazaar. It has won the Special Jury Prize at the 25th Kolkata International Film Festival recently. The film drew a packed house when a special screening was held in her native city Thiruvananthapuram. J. Geetha in conversation with **Shoma A. Chatterji**.

What is the film *Run Kalyani* all about?

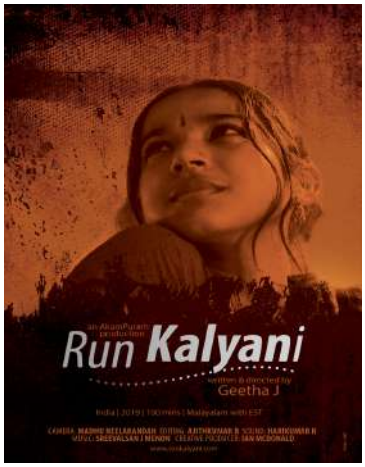
Kalyani is a young cook who lives with her ailing aunt and a young man in a rundown agraharam in Thiruvananthapuram. Each day is the same as she carries on with her life of duty as a cook and caregiver. As the romance of poetry ignites a passion, as the stories of other worlds stirs a desire, as sharks close in and death draws near, *Run Kalyani* builds into an intense crescendo of grief and grit, sorrow and strength. It is a poetic and realist drama about duties, dreams and desires that draws you into the world of Kalyani.

What or who inspired you to make this film and why?

Women who work silently behind the scenes! I have seen women who work so hard but are shadowy figures and live an unseen life. But is their life any less dramatic? No. And through Kalyani's eyes we see many other women, and men. This is not a polarised film about men and women. It is about all of us, trapped in a pattern of living, but life is never static. It keeps changing and we have to be alert to that and make the right intervention. It is like a game of chess, really!

Why did you choose an ambiguous title like *Run Kalyani*?

It has a literal meaning because the story is about Kalyani who we see constantly running in her day-to-day life. Finally,



the "running" for her, turns out to be liberation from her routine life; more important is the metaphorical meaning beautifully evoked in the song 'Aren't we all running?'

The mad man on the streets and the man under the tree who plays a musical instrument. Why these insertions?

For me it is important that these characters, mad men and musicians are still there in our streets and are part of our lives. The point is that Kalyani notices them – that is why they feel like insertions and not just background people. Athough they are not central to the plot, they have a place in the film, again the unseen is seen.

The mad man is modelled on a real mad man who used to live near our house in Kerala. He used to dress smartly in white, come to the bus stop at 9 am and talk non-stop the whole day and leave at 5 pm. No one took notice of him. His mixed-up denouncements are also a pointer to the literary and political awareness of the average Malayalee and also to the high incidence of madness in the state.

The musician is a different kind of insertion. Kalyani's response to him and the musicality of the pattern raises the film to a dream-like moment. Also differences are juxtaposed and harmonised as he plays what we created, the Indian Bolero – an inspired adaptation of Ravel's Bolero with a nadaswaram.

What issues are you exploring in the film?

There are probably many issues embedded in the pattern of the film that may be picked up by the viewers. Firstly, the film is about families and the secret problems they hide, such as domestic violence. The film is about women, women with dreams, desire and duties. It is about class too, here the Brahmin working class. It is about care for the elderly and total lack of State support or community support for the same. It is about retirement age when able and experienced employees have to retire. It is about love not just amongst the youth, but amongst the mature adults too. It is about youth and fanciful dreams. It is about inner strength that Kalyani possesses. It is also about the place, shot as it is entirely in Trivandrum.

The graffiti on street walls are quite telling. What are you trying to say through these?

The three stars of yesteryear appear in the film. As Kalyani walks by, we can see the two contemporaries of Madhu, the 84-year-old chess-obsessed father, Prem Nazir and Sathyan sketched on the street walls taken over by artists on Sundays in Trivandrum. We also see drawn on the walls famous theatre personalities and poets like Kavalam Narayana Panicker and Kamala Das. Mammootty's famous lines from *Koodevide* are referred to by Raghavan and the ruling party's famous slogan is used by Vijayan.

You have used silence very powerfully through your characters. Why?

Kalyani does not talk much. Vijayan and Nirmala too do not talk much except for a slow but accelerating reciting of poetry that slowly reaches a passionate crescendo. The loneliness and suffering of the protagonists are accentuated by simple gestures and eloquent glances. In fact, the three leading characters speak the least in this ensemble drama. Kalyani listens to the absurd stories of a character who is full of words and weaves beautiful stories. But he is the only character created by Kalyani's imaginative mind.

Would you like to bracket your film as a woman's film?

Not really. *Run Kalyani* is an ensemble drama with equally important male and female characters. However, the women characters signify something more, right from the lead Kalyani to her aunt Rukmini, the two women in the house where she goes to cook and the visiting daughter of the house. When films nowadays including the 'feminist' and the 'art house' are all becoming shrill and aggressive, I want to seek the steely strength that women have and bring that to life. Kalyani is an amazing character – she is gentle, quiet, caring, but is also made of something stronger and is a survivor.

Shoma A. Chatterji is a freelance journalist, film scholar and author. She has authored 17 published titles and won the National Award for Best Writing on Cinema, twice. She won the UNFPA-Laadli Media Award, 2010 for 'commitment to addressing and analysing gender issues' among many awards.

Finer points of a PG agreement

Giving a house on rent or having a paying guest in your flat for monetary reasons is not an easy task. **Vaidehi Goyal** *gives us a list of dos and don'ts of a PG agreement.*

Many homeowners resort to allowing paying guests in their premises for monetary reasons. Having an agreement between an owner and a paying guest safeguards the interests of the homeowner. Listed below are a few salient features that a good agreement between a flat owner and paying guest, should contain:

• The agreement should state that the owner is allowing the paying guest the use of one bedroom for their use only on a temporary basis and on certain terms mentioned later in the document.
• The period of the paying guest's stay should be mentioned clearly plus the amount to be rendered plus a contribution to other charges such as electricity bill and society charges.
• The owner may allot to the paying guest any of the bedrooms in the said flat for his/her use with a condition that the owner can change the allocation at any time during the term of the agreement.
• The paying guest should specifically confirm and agree that they have no right whatsoever to the said premises nor claim to neither be tenant / sub-tenant or licensees nor claim any other right whatsoever to the said premises.
• The paying guest may use the passages in the flat for access to the room and may use the kitchen for cooking their own food only provided that no disturbance whatsoever is caused to the use of the kitchen and passages and other portions of the flat.
• The paying guest shall not cause any disturbance at any time and may permit guests or any outsider to enter the flat only with the permission of the owner.
• In the event that the paying guest misuses any of the facilities in the flat or causes any disturbance or delays in making payment of his charges, the agreement can be terminated and the owner is entitled to enter the room allocated to the paying guest to remove all the belongings of the paying guest and dispose of them.
• The paying guest will be responsible for any damage caused by them or by any other outsider who has entered the flat through them and to any of the furniture, fixtures and equipment with the exception of reasonable wear and tear.

Protection available to lessee cannot be availed by licensee

The practice of Leave and License is extensively followed in budding real estate markets such as Maharashtra and Gujarat. Simply put, leave and license is just a license to make use of the owner`s premises. As a result, landlords face a much lower risk as far as the recovery of their properties is concerned. Secondly, the laws that govern leave and license practices are far more lenient than those that are applicable to a lease.

A lease of immovable property on the other hand is a 'transfer of a right to enjoy such property, made for a certain time express or implied or in perpetuity, in consideration of a price promised or paid or of money, a share of crops, service or any other thing of value to be rendered periodically or on specified occasions to the transferor by the transferee who accepts the transfer on such terms'. This means that unlike the 'lease' practice, leave and license practise does not transfer the interest or create any interest in the immovable property.

Under the earlier provisions of the Bombay Rent Act, 1947 landlords who did not require the premises for their own use were not willing to rent out their premises for fear of problems when it came to recovery. This created a huge problem for people who wanted temporary accommodation because the Bombay Rent Act provided protection to tenants. The practice of leave and license was then put forth as a solution to this problem and provisions were added which specified that in case where the licensee failed to deliver the possession of the said licensed premises on the expiry of the period of the license, he (the licensee) could be summarily evicted from the premises by a competent authority according to section 31D of the Bombay Rent Act.

As per section 7(5) of the Maharashtra Rent Control Act, 1999 is restricted to 'occupation'. Therefore, a license can be said to be 'a right to occupy an immovable property and use it for the purpose for which it is granted for a specified period of time.' The Maharashtra Rent Control Act, 1999 by virtue of section 55 compulsorily requires this agreement to be in writing as well as registered. It is the landlord's responsibility to get such an agreement registered. In case of a failure to register such an agreement, the landlord on conviction can be liable to imprisonment which may extend to three months or a fine not exceeding Rs 5000 or both.

The stamp duty on a leave and license agreement is levied as per section 36A of the Bombay Stamp Act, 1958. It should be noted that the stamp duty on a leave and license agreement differs according to the duration of the license and whether the agreement has a renewable clause or not. If, in addition, to the monthly compensation, a deposit is also accepted, then extra stamp duty is levied on such an agreement.

The terms of the agreement state the rights and obligations of both the parties i.e. the licensor and the licensee. Strict compliance on the part of the licensee is absolutely essential. Since the licensee is not a tenant and the protections that are available to a tenant or lessee are not available to a licensee. If there is no written, registered agreement, the contention of the licensee with regard to the terms and conditions of the agreement on which the license is granted shall prevail unless it is proved otherwise.

The most important advantage in leave and license agreement is that the landlord is secure in the knowledge that he can easily recover his property after the license expires.

The agreement must be in writing

According to legal terminology, the term Leave and License is considered as a right to do or continue to do in or upon the immovable property of a grantor something, which would in the absence of such a right, be unlawful, and such right does not amount to an easement or an interest in the property. Before giving premises on a leave and license basis, property owners should take a number of precautions to safeguard their interests in the said property.

Firstly, they should make sure that the stamp paper should be in the name of the party to the agreement. The agreement should be drafted in writing referring to the particulars of the area of the premises, period of license, amount of compensation payable, amount of deposit if any and other particulars after which it should be countersigned by two witnesses. Under the Bombay Stamp Act, 1958, it has been stated that every agreement for leave and license or letting of the premises between a landlord and a tenant or the licensee should be in writing and should be registered.

After the commencement of the Act, there cannot be an oral agreement for tenancy or leave and license premises. The non obstante clause – 'notwithstanding anything contained in this Act or any other law' – gives an overriding effect to this provision and therefore it overrides the Transfer of Property Act, 1882, the Registration Act, 1908 and the Easements Act, 1882.

In order to maintain control over the premises, exclusive possession should not be given and only a duplicate key should be given. The original key should be kept safely with the licensor stating that under no circumstances should the key of the premises be changed. The licensor should also keep an affidavit of the licensee that discloses his full name and permanent address. The affidavit should clearly state that the licensee will vacate the premises unconditionally after the expiry period of the license and if he fails to do so, the licensor can get rid of his personal belongings with the help of the police.

The affidavit should also state that in the event the licensee prolongs his departure after the expiry of his license, the deposit amount given to the licensor by the licensee will also be forfeited and the licensee will be treated as a trespasser. Accordingly, he will also be liable to pay damages and compensation which will be more than two times of the agreed compensation with a penal interest at the rate of 18 percent or more.

Vaidehi Goyal is a legal researcher with www.SocietyMatters.in – an initiative of DraftCraft International to educate and empower stakeholders and ensure the reach of laws affecting Housing Societies across India, in principle and practice.

The nation gets a pragmatic army chief

After attending the first formal press conference by the new army chief Gen. M.M. Naravane, Lt. Gen. (retd.) **Vijay Oberoi** *comes back gushing with pride in our army and its leadership.*

The new army chief, Gen M.M Naravane, having assumed the command of the formidable Indian Army on New Year's Day, wowed the nation and the army in his first formal press conference, ahead of the Army Day on 15 Jan 2020. He covered a host of subjects relating to practically all aspects of the army, ranging from the strategic to joint on the one hand and operational to logistics to administrative on the other. However, he did not forget the 'man behind the gun', as he emphasised strongly that he/she were the most important components in the overall structure of a battle-winning machine like the army.

His vision is clear and he articulated it without recourse to jargon. At the end of his interaction, I came away with confidence and pride in our army and its leadership, which had been somewhat dented in recent years, although our rank and file, especially our young officers and units were as good as ever, if not better.

I was particularly happy to note that the chief clearly and unequivocally stated that the army and indeed the other two services too, serve the Constitution of our great country on which all ranks of the military take oath, yet emphasising that the army will do its best to accomplish legitimate tasks assigned to it by the Government, meaning the political leadership of the nation. That is how it should be in a democracy. We must not stray from what we learnt in the training academies; in our units and formations; and through our mentors. It is only then that we would gain experience and expertise in the allocated tasks and in the overall scheme and ethos of the army.

Elaborating, he highlighted that the Constitution guides us in all our actions at all times; "the army fights for the values of justice, liberty, equality and fraternity and respects the rights of the people", he added. Indeed, these are the core values which are enshrined in the Preamble to the Constitution. He also highlighted the importance of fundamental rights. Gen Naravane stated that "we are an army of the people, for the people and all we do is for them". He adroitly stressed on a course correction to pull the army away from political controversies, back to the professional domain.

On the operational plane and threat scenarios, he unequivocally brought the existential threat from China to the fore, instead of pussyfooting about it, which had been the norm earlier. However, he balanced his remarks by citing the current peace and tranquility that prevails on the northern borders, including the hot line now established between our DGMO and China's Theatre Command is responsible for the entire border with India.

Fielding questions candidly

There were some delicate and sensitive questions that were fielded, including on strategic and operational matters. Instead of evading them, or brushing them aside, or even giving vague answers, he dealt with them head-on, without any grand-standing. In fact he was candid and quite open about them.

He dealt with the question relating to retaking of Pakistan Occupied Kashmir (POK) with characteristic aplomb. It had been talked about by some political leaders in their bravado after the events of 5 August 2019 in Jammu &Kashmir. Despite its sensitiveness, the chief dealt with the question candidly and without any threats or machismo.

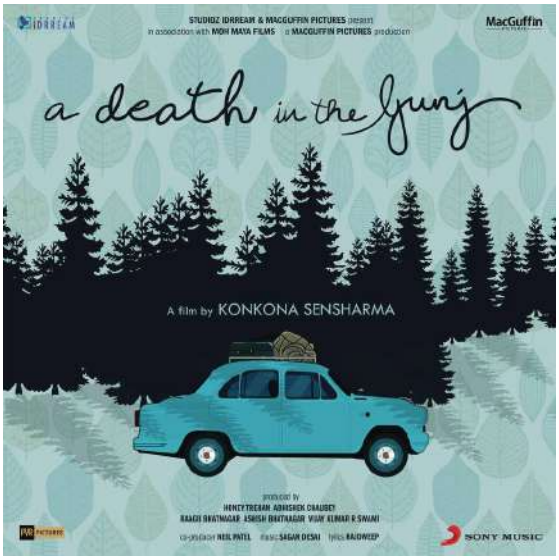
On the existential threat from two of our neighbours, he clearly stated our inter-se priority for dealing with them. For those advocating the need to tackle the two simultaneously, if the contingency comes up, his pragmatic answer was that only one would be tackled offensively, while we defend the other. He also mentioned a phrase 'dual tasking', which was music to my ears as I was the one who had coined it a long time back when I was in MO Directorate. Unfortunately, it seemed to have been forgotten as many in the past military hierarchies believed in Rambo-like utterances of fighting on two fronts and even two and a half fronts! These were bandied about ignoring numerous historical disasters of fighting on multi-fronts and ignoring deep analysis by many.

For his first inter-action with the media, he was comprehensive and open in dealing with issues that he would be confronted with in his tenure. I salute him for his candidness and cannot help adding 'Hail the Chief'.

(continued on page 33...)

The Anglo-Indian in Indian cinema

Recently, the Anglo Indians of Kolkata protested against the centre`s plan to de-reserve the community. **Shoma A. Chatterji** *tells us on how Anglo-Indians have been portrayed on Indian celluloid.*



The Anglo-Indians in Kolkata are angry. They claim that the centre does not have the slightest notion of the number of the Anglo-Indians in the city. They are upset because initially, it was decided that this community will be de-reserved. If this were to happen, then the Anglo-Indians would stand to lose their representation in the Parliament where two seats are reserved for them in the Rajya Sabha and 13 in the different state assemblies. Later, PM Narendra Modi declared that reservation for this community would be extended perhaps for ten more years.

Who is an Anglo-Indian? He/She is a person who is born half-British/European and half Indian, uses English as his/her main lingua franca, wears Western clothes and follows British customs and lifestyle. It is mainly the mother who is Indian and the father is either British or European. Some of them got married while others lived together and that is why the Hindu majority had a derogatory attitude towards this community. How have they been presented in Indian cinema? Let us take a closer look.

The Anglo-Indians on Indian celluloid

Few Indian films have explored the Anglo-Indian identity either through character or through theme. Ruth Labadoor (Nafisa Ali) in Shyam Benegal's *Junoon* (1978), her mother Miriam (Jennifer Kapoor) and grand-mother, are half-English escapees of an attack on a congregation in a British Church by a band of Indian soldiers led by Sarfraz Khan (Naseeruddin Shah). The girl and the two older women take shelter in the house of a faithful Hindu retainer. They are soon discovered by Javed Khan (Shashi Kapoor) who always wanted to marry Ruth. When the news of the fall of Delhi reaches Javed, he joins the mutinying soldiers and is killed in battle. Fifty years later, Ruth dies in England, a spinster.

Pradip Kishen's *Massey Saheb* (1986) uses the English language not only as the language of the film, but also as central to the theme. Set in the early 1930s, the film revolves around Francis Massey (Raghuvir Yadav), a dark-skinned, Indian Christian clerk who works for the Deputy Commissioner. Sharing a common language and religion with his British masters gives him a sense of superiority. His ambition to be one of them leads to his downfall.

36, Chowringhee Lane's time-frame coincides with the 1980s, more than three decades after Independence, when, under a reverse anti-colonial and pro-Indian wave, Anglo-Indian teachers and secretaries were being markedly replaced by Indian substitutes, never mind the effect of this substitution on the quality of English teaching. Miss Violet Stoneham, the protagonist of 36, Chowringhee Lane, is a helpless victim of this pro-Indianisation of teaching staff in missionary schools.

Much of the film has to do with Stoneham being an Anglo-Indian per se, as much as it has to do with her sense of marginalisation in a soil she has grown up to love as her own. It also has to do with her school teaching, where she finds herself isolated and alienated from the mainstream teaching staff, where Anglo-Indian teachers are being replaced by Indian substitutes. The subject that she taught to higher classes – literature – that included Shakespeare – is taken away from her and she is relegated to teaching Grammar to lower classes. The loneliness, isolation of her single life, dotted by the occasional nightmare, takes an about turn one day. And Stoneham's life changes forever.

Anjan Dutt's debut film *Bada Din*, starring Mark Robinson and Shabana Azmi, is the first film after Aparna Sen's *36, Chowringhee Lane* to try and grasp the lives of Anglo-Indians in Kolkata in the changed, crime-ridden, lumpen-filled scenario of the 90s. The link of the underworld mafia with the police, both of which try to brutalise and victimise an innocent bystander, forms the crux of the film. There is a sub-plot of a blooming love between the beer-guzzling, drunken landlady (Shabana) and her much younger tenant (Robinson.) Unlike *36, Chowringhee Lane*, this film takes a close look at the seamier side of the Anglo-Indian community. But somehow, the film lacked focus and spirit and unfolded a rather unconvincing story on celluloid.

The latest addition to this roster of films and the most outstand-

ing one is *A Death in the Gunj* directed by Konkona Sen Sharma. The film is set in McCluskieganj around 1979 when it was almost like a base of Anglo-Indians who had houses there and almost the entire community was made up of Anglo-Indians. The film focussed on an Anglo-Indian family that had gathered for Christmas.

A Death in the Gunj is more about life than about death. It is more about the gunj the name used for McCluskiegunj by visitors and locals. Brilliant performances by the ensemble cast that ranges from famous veterans to absolute newcomers are a treat to watch. Vikrant Massey in his first lead role as Shutu, the failure in the family who everyone treats like dirt, brings the character alive with his silences, his confusion over why they need him when something needs to be done but avoid him or make fun of him at other times, with a twitch of his brow, his smouldering eyes, his pathetic weeping in the corner of his room, slipping under the quilt and pulling it over his head, trying to feel his father by wearing his old sweater he fetches from the cupboard, his simmering anger that rises to the surface and he finds it difficult to restrain is an award-worthy performance.

The cliched stereotypes

Certain cliched stereotypes define the Indian Christian character in mainstream cinema. These may or may not be Anglo-Indian. Mainstream cinema has successfully reduced the Christian minority in India to a convenient monolith – a homogenous entity that does away with their ethnic divisions into Indian Christians, Roman Catholic, East Indian, Anglo-Indian, Syrian Christians and so on. Umberto Eco calls these clichés 'explicit codes' – characters depicted in terms of certain outward features. In films featuring one or more important Christian characters, one will find these common elements – the mandatory church, the altar, the priest, the Holy Cross, Christmas or Easter festivals. The characters are projected as caricatures and paper cutouts of real people from the real world who may or may not be Christians. They are projected as:

- fun-loving, beer-guzzling people who love to sing and dance and have fun, drug addicted wasters,
- rootless people without surnames but repetitive first names like Peter, Jack, Robert or Tony,
- the villain's henchmen with lots of brawn and no brain,
- the semi-nude cabaret dancer who is either a dumb blonde fashioned after villain Ajit's 'Mona darling,' or,
- a beautiful vamp with a heart of gold who invariably falls in love with the hero.

These negative qualities, according to Fareed Kazmi, serve several functions, precisely because they are negative or derogatory. They provide a safety valve for the release of the viewer's repressed sexuality. The male libido that cannot be satisfied by the 'sati-savitri' heroine with conventional moral codes gets easy access to the Lilys, Monas, Monicas, Julies and Ritas through fleshy floor shows fantasized on celluloid.

On the existential threat from two of our neighbours,

Shoma A. Chatterji is a freelance journalist, film scholar and author. She has authored 17 published titles and won the National Award for Best Writing on Cinema, twice. She won the UNFPA-Laadli Media Award, 2010 for 'commitment to addressing and analysing gender issues' among many awards.

The nation gets a pragmatic army chief

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A few days earlier, the chief had addressed a group of officers, in which many important points had been made. These included his emphasis on faith in command, following orders in letter and spirit, senior to guide and not to fix, cut unnecessary expenditure, probity, austerity, keep abreast with latest, especially in the military domain by extensive readingand follow the law of the land. He had also emphasised the need to be physically fit, plus many more day-to-day actions.

We should be getting positive news from time to time in the next approximately 28 months of his tenure, about how the famed Indian Army is returning to basics, while training and meeting present and future challenges. Back to basics does not mean regressing but to march ahead to the future with pride and élan, without forgetting its moorings and meeting the latest challenges, which are many. The chief will undoubtedly get the full support of the rank and file, but equally important is the need to get support from other departments and agencies of the government, which are usually not forthcoming in totality and in time!

The chief has brought in a breath of fresh air and independent thought in the stultifying and bureaucratic atmosphere that had lately polluted the air in the corridors of South Block, where cronyism and misplaced loyalty to individuals and not the organisation had prevailed. Pragmatism had unfortunately been sacrificed at the altar of gratuishes loyalty!

Lt Gen Vijay Oberoi is the President of the War Wounded Foundation and former VCOAS.

The Unexpected Man: A silent journey

Despite no exchange of dialogues between the two lead characters, 'The Unexpected Man' is a powerful play that raises questions about communication in our times, writes **Prof. Avinash Kolhe**.

Some plays demand a lot from the actors as there is no conventional 'action' in such plays. Yasmina Reza's 'The Unexpected Man', written in 1995, is one such rare play which the actors have to carry on their shoulders under the baton of a talented director. Padma Damodaran has managed to pull off this challenging task with aplomb.

The production house, Red Earth Stories, established last year by Padma Damodaran and Sadiya Siddiquie, two well-known actresses, has mounted this play. This French play has been translated in English by Christopher Hampton, Reza's long-time collaborator.

The story of 'The Unexpected Man' takes place in a train compartment which is going from Paris to Frankfurt. This journey normally takes a couple of hours. During this journey there is a middle-aged man and middle-aged woman in the train compartment who do not talk to each other at all, but talk all the while to audience through what is called 'internal monologue'. The couple do not move much on the stage, there is only one frugal set and the light design is simple. And yet, Reza's powerful and philosophical script manages to hold the attention of the audience for nearly 80 minutes superbly.

Yasmina Reza (born 1959) is a renowned Paris-based playwright who has to her credit brilliant plays like 'Art' and 'God of Carnage'. The latter is such a powerful play that Roman Polansky made it into a movie 'Carnage', which was released in India in 2012.

The play

Parsky, a writer and Martha, Parsky`s fan are fellow travellers. Both are travelling by train to Frankfurt. Martha is a huge admirer of Parsky and carries his latest novel 'The Unexpected Man' in her handbag. In the beginning it appears to be a typical 'stranger-in-a-train' play. She is seated across the author who hardly notices her presence, engrossed as he is in his own world. Parsky has been a part of her inner world, a man she seems to know better than her own friends. Says she "I have spent my life with you, Mr Parsky". This admission adds a whole new dimension to the play as he is not a stranger to Martha, at least. And yet she does not muster enough courage to talk to him as she fears that it may destroy the image she carries of Parsky.

And yet both speak silently about themselves. Parsky, the ever-complaining middle-aged author is angry with everything under the sun. He is infamous for being anti-social and even bitter. Martha, an admirer of Parsky, the author is in awe of him and secretly worried that the real persona of author may not be what image she has in her mind. Though she desperately wants to talk to him, she is paralysed by a combination of awe and a sense of that her fantasies of who he is might prove far superior to the reality. Parsky has always stayed in his inner world, contemplating his family problems and a friend's response to his latest novel which is not very complimentary.

How does the play end? Well, as it should end with no action taking place. There cannot be a conventional end to such a play. It ends when the possibilities of dialogue are exhausted. In a way it is the play of our times when communication has lost its appeal. In a strange way, *The Unexpected Man* raises some worrying, existentialist issues: Is communication possible in our times? Is it even necessary? Why do we communicate? Can we really communicate? And there are no answers to such questions.

Padma Damodaran has directed the play and has also essayed the role of Martha. Naved Aslam (Parsky) is lovable as the ever-complaining author. The set design of the train coach has been aptly done by Prasad Walavalkar while the light design by Deepa Dharmadhikari is mellow and is in tune with the mood of the play.

Prof. Avinash Kolhe retired as Associate Professor in Political Science from D.G. Ruparel College, Mumbai.

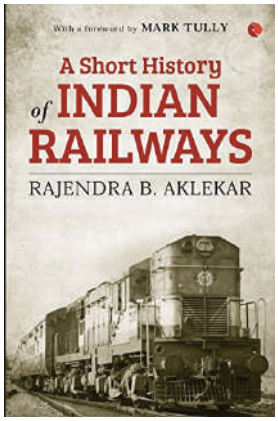
A Short History of Indian Railways

Author: Rajendra B Aklekar

Publisher: Rupa

Pages: 248 | Price: INR 295

Headline: The Railways in India, On Time



A *Short History of Indian Railways* by Rajendra B Aklekar, weaves a delightfully engaging narrative of the history of railways in India. The author's study of the beginnings of railways in the country is based on painstaking research of official and unofficial records. Further, the information of the numerous locomotive experiments along with their challenges and successes leading to the era of the Indian Railways are presented in detail. A fascinating account of the historical and architectural facets of Royapuram, India's oldest functional railway station speaks of the author's deep love and nostalgia for the railways in all its 'glory'.

The book carefully traces the stories and anecdotes behind the foundation of rail tracks and steam power in India 'in line with the developments in England and many other countries of the world'. Essentially rooted in ensuring easier transportation of cotton from India to England besides managing faster deployment of troops, establishment of the railways in the country was inevitable. Having said this, the challenges of the unfamiliar terrain and harsh weather conditions, rigid local customs and superstitions, and a complete lack of knowledge at the grassroots level presented several difficulties. However, the colonials were able to tide over the issues and set up the railways in India.

Ranging from names such as 'aag boat' to 'agni rath', the first locomotive in action presented a cultural shock for the natives and the anecdotes surrounding this have been superbly shared in the chapter detailing the arrival of the railways. In fact, the spread of the steam engine posed a threat to the traditional modes of transportation in the country; by the 1880s, they had become an intrinsic part of the Indian topography, irrespective of the types of lines. These form the basis of many history books, travel diaries and autobiographies of the period.

Delving deeper in India's history, we learn how the First War of India's Independence, in 1857, witnessed strategic planning behind laying the railway web in the country. The author also educates us with a technical explanation behind the track gauge. In the same chapter, he shares fascinating anecdotes connected with the Matheran Hill Railway and the Barog tunnel, taking us back in time.

We also learn about the beginnings of consolidation and systemic improvement in the Indian Railways, in the form of a Railway Board, responsible for the complete management of the network in the country. A separate railway budget was another step in this direction with the aim of emancipation of the railways from the control of the Finance Department of the then Government of India. The discussions bring to the fore the careful thought and planning behind the management of railways in the country; railway electrification being one such visible manifestation. Aklekar's thorough analysis makes us understand the history behind the railways as it exists today and its significance. Similar to our idiosyncrasies, the book elaborates on the peculiarities of train travel in the country, placing it within the perspective of the first half of the twentieth century.

The story like narration of the steady rise of railways in India and its various facets constitutes the most distinguishing feature of the book. In the same tone, we're introduced to the era of electric railways and the innumerable evolutionary and rather fascinating tales associated with the Indian railways. The book also explores the intrinsic relationship between the railways and India's freedom movement, the Kakori train incident, Gandhiji's critique of third class rail travel in the country, and also the trauma of Partition and its aftermath via the railways.

The final chapters detail the post Independence transition from the colonial railways to the present in terms of the consolidation of railways in the country in the form of regrouping of the railway zones, the curious link between politics and railways, the Metro, and stories around India's first bullet train. The book is a marvelously well written historical romance of the railways and their bond with India.

Rajendra B. Aklekar is a senior journalist who has authored numerous books on Indian Railways, including the best seller-Halt Station India, a dramatic tale of the nation`s first rail lines.

Anushree Tiwari Sharma is Assistant Managing Editor with a leading publishing house and an avid reader.

SHIVAKUMARA SWAMI

Social reformer and educationist (1907-2019)

A much revered seer hailed as 'Nadedhaduva Devaru' (Walking God) by his legion of followers, Shivakumara Swami who passed away at Tumakuru in Karnataka at the ripe old age of 111 was born on 1 April 1907 at Veerapura in the Magadi Taluka, a part of the erstwhile kingdom of Mysore as the youngest of 13 children of Gangamma and Honne Gowda. Ardent followers of the deities Gangadareshwara and Honnamma his parents took him to the shrines in Shivaganga and kindled in him an interest in spirituality. He completed his matriculation in 1926 and enrolled in the Central College in Bangalore to pursue courses in arts, physics and mathematics. However, he had to drop out midway after he was designated as the successor to Uddana Shivayogi Swami to head the Siddaganga Mutt.

Incidentally, it was the Swami himself who anointed a young Shivakumara as his religious heir. Shivakumara Swami was appointed as the head seer of the Mutt on 11 January 1941, after the demise of the senior swami. Till his passing on the 21 January 2019 after a brief illness the seer remained as the pontiff of the Mutt.

Proficient in three languages, Sanskrit, Kannada and English, the Swami who professed the Lingayat religion was first and foremost an educationist. During his tenure of over seven decades as the Mutt's head, Shivakumara Swami founded as many as 132 educational institutions under the aegis of the Siddaganga Education Society that spawned across Karnataka state. From nursery schools to engineering, modern science, technology, arts and management as well as vocational training colleges, the Swami's all-encompassing vision embraced a wide ambit and has been instrumental in affording opportunities to the youth to rise and shine in their lives. A Sanskrit scholar himself, Swamiji also introduced courses that had as part of its curricula the traditional learning of Sanskrit. Among his followers was the late President A P J Abdul Kalam, who visited the Mutt and lauded the seer for the initiatives that he had been taking in the sphere of education and also praised him for the humanitarian activities carried out by the Trusts run by the Mutt.

The Swamiji who at the age of 111 had earned the distinction of being one of the oldest living Indians was a lifelong esteemed adherent to Lingayatism, but commanded respect across all communities and religions as he firmly believed in the equality of all religions and faiths. The super centenarian was above all a humanitarian whose long innings as a spiritual thinker and educator endeared him to one and all. The Mutt's philanthropic activities spearheaded by the Pontiff himself witnessed the setting up of a 'gurukula' where as many as 10,000 students from the age of 5 to 16 mostly from underprivileged and downtrodden backgrounds belonging to all religious groups are provided food, clothing and shelter and also education at the Mutt's schools. His advancing age which brought in its wake a number of ailments never came in the way of his discharging his obligations to the Mutt and even till his last breath he remained a hands-on administrator overseeing the Mutt's wide range of activities.

Shivakumara Swami was the recipient of several awards and honours during his long spell of service in the common cause. He was awarded a degree of Doctor of Literature by the Karnataka University in 1965 and was also conferred with the highest honour of the state 'Karnataka Ratna' in 2007, his centenary year by the Karnataka Government. In 2015, the Central Government awarded him the third highest civilian honour, the Padma Bhushan. The Karnataka Government and the seer's followers have been urging the government to honour him with the country's highest civilian honour, the Bharat Ratna but their entreaties have not yielded any dividend so far.

The Swamiji's life was a long, unending saga of service to humanity and his firm belief in his faith and in his ability to turn around lives that had been torn asunder by privation and misery remained intact till the very end.

- C.V. Aravind is a Bangalore-based freelance journalist.

DR. SHREERAM LAGOO

Natsamrat of Marathi theatre (1927 – 2019)

Dr. Shreeram Lagoo was a legendary film and theatre actor, known for his character roles, in addition to being an ENT surgeon. In four decades, he acted in over 100 Hindi and Marathi films, over 40 Marathi, Hindi and Gujarati plays, and directed over 20 Marathi plays. *Zaakol* in Marathi remains the only film he directed. He enthralled audiences with his outstanding body of work. A talent as nuanced and natural as his was rare to find. He described his childhood self as a bathroom actor, caught between a desperate love for theatre and a deep fear of audiences. But deeply inspired, he would declaim classical Marathi monologues in the style of British and American actors while locked in his room. These early influences shaped Lagoo's approach towards acting.

Born in Satara district, Lagoo studied at Bhave High School and later attended Fergusson College and B.J. Medical College, Pune, where he received his MBBS and MS degrees, respectively. While studying, he also acted in plays and co-started a group *Progressive Dramatic Association*. After acquiring a degree in ENT surgery from the University of Mumbai in the early fifties, he practiced in Pune for six years, before going to Canada and England for additional training. His theatre activity continued when in India.

Despite success as an ENT surgeon, Lagoo decided to turn his passion for theatre into a fulltime vocation in 1969. After a brief struggle, he bagged the role of Sambhaji, the son of the Maratha king Shivaji, in Vasant Kanetkar's *Ithe Oshalala Mrityu* (Where Death Shied Away). Lagoo's obvious talent attracted attention. His career in theatre soared with the role of the protagonist in the famous iconic Marathi play *Natsamrat* written by Kusumagraj (Vishnu Vaman Shirwadkar) in 1970. But the demands of the character were so intense, that it caused his health to deteriorate. Commercial success came with his very first film V Shantaram's *Pinjra* (1972), in which he portrayed a nuanced performance as a principled village teacher.

He ruled the Marathi stage with plays like *Natsamrat*, *Surya Pahilela Manus*, *Mitra*, and Marathi films like *Pinjara, Sinhasan, Samna, Himalayachi Saoli, Premachi Goshta, Kachecha Chandra, Yashoda, Udhvasta Dharmashala, Ek Hoti Rani, Khichadi, Mukta Masala*, and *Shashan*, his last film. He acted and directed the long-running *Gidhade*. His Hindi films included *Thodisi Bewafai, Maqsad, Souten, Nasihat, Awam, Devata, Des Pardes, Lawaris, Muqadar ka Sikandar, Inkaar, Sajan bina Suhagan, Kinara, Lootmaar, Insaaf ka Tarazu* and *Gharonda*, to name a few. He played the character of Gopal Krishna Gokhale in the feature film, *Gandhi*.

Lagoo described his tendency to win awards as a bad habit, one he could never break. He won several awards including Padma Shri relatively early in his career, in 1974; the Filmfare Best Supporting Actor award for his work in *Gharonda*(1978), the Kalidas Samman of the M.P. Government (1997), the Master Dinanath Mangeshkar Smruti Pratisthan for his contribution to Marathi theatre (2006; 2007), Punyabhushan' Puraskar (2007), the prestigious Sangeet Natak Akademi Fellowship (2010) and the Lifetime achievement award by the youth theatre group Thespo (2016). He also contributed articles on theatre in literary magazines and wrote one-act plays.

Lagoo's dedication to theatre never wavered. He had disdain for the division between theatre and cinema and commercial and experimental art. His acting prowess hinged on his clear and captivating voice, which he painstakingly modulated. His piercing gaze was also a vital element of his performances. Affectionately known in theatre circles as 'Doctor', he was also known for his progressive, non-religious rationalist views, which he expressed without fear. He died on December 17, 2019 at the age of 92. In his passing,the Marathi theatre has lost its beloved Natsamrat. Indian theatre has lost a giant. A man of many faces, his eternal legacy will continue to reign in the hearts of millions!

- A.Radhakrishnan is a Pune-based freelance journalist, short story writer and poet.

ADMIRAL JAYANT GANPAT NADKARNI (PVSM AVSM NM VSM)

The doughty Admiral (1931- 2018)

Admiral Jayant Nadkarni was born on 5 December 1931 and joined the National Defence Academy (NDA). He was commissioned into the India Navy (IN) in 1949 and received the basic training at Royal Naval College, Dartmouth, training cruiser HMS Devonshire and other establishments of the Royal Navy. He was selected to undergo specialisation course in navigation and direction. On return to India, he was the most sought after navigator. His talent was acknowledged even in the UK. Admiral Nadkarni served as navigating officer at INS Kothari and INS Rana. He had the unique distinction of commanding a ship in every rank from lieutenant to captain, a coast guard interceptor boat and a mine sweeper. He was a graduate of the Defence Services Staff College (DSSC), Wellington and completed training at the College of Naval Warfare (CNW), Karanja; and the National Defence College (NDC), New Delhi. He was a member of the tri-service sailing team that sailed onboard Indian Naval Sailing Vessel Samudra during her 'round-the-world sailing expedition' in 1988-89.

An outstanding feat by him was the Operation Godavari Salvage. He was commanding officer of INS Delhi and was responsible for salvaging INS Godavari which had run aground on a reef near Maldives. There was no specialised salvage equipment or accurate charts. It was a complex operation as the ship was deeply embedded in the rock and the sea was shallow. The ship could not be abandoned in international waters to ensure the prestige of the navy. Captain Nadkarni managed to adroitly salvage the ship and sail to Mumbai with Indian pride intact.

He held key appointments of Command Plans Officer at Western Naval Command (WNC), Director Naval Intelligence WNC, Director of Naval Intelligence (Operations) at New Delhi, Chief Staff Officer (Operations) at WNC, Flag Officer Commanding Western Fleet and Chief of Personnel at Naval Headquarters. His intellectual excellence was well recognised in his tenures as Instructor Defence Services Staff College, Wellington, the College of Naval Warfare (CNW), Karanja; and the National Defence College New Delhi. As Chief Instructor (Navy) at the Staff College, his team revolut-ionised the staff duties paradigms.

Admiral Nadkarni took part in the war for liberation of Goa and the two Indo-Pakistan wars of 1965 and 1971. He took over as Chief of Naval Staff (CNS) on 1 December 1987. During his tenure as CNS, the three Services carried out an operation to avert a mercenary coup in Maldives. His communication messages then are remembered and cited for brevity, clarity and resolve. He had his share of accidents at sea but he always encouraged his officers to sail. His advice to his captains was that the ships would always be safe in the harbour but that is not what the navy is meant to do. It was during his service as chief that the first nuclear- propelled submarine, INS Chakra, was inducted. It was obtained on lease from USSR. It was a major technological advance and was achieved in spite of limited budget for the navy.

Admiral Nadkarni was modest and down to earth chief. He was not carried away by his rank and was a professional to the core, well read, fair and firm to his colleagues. He had a fine sense of humour. Unflamboyant and modest to a fault, he earned the navy's genuine respect and affection. He was never carried away by his rank and remained a thorough professional, fair and firm in his dealing with subordinates. He had a steely determination to do the right thing always and every time by his ships and men.

He retired on 30 November 1990 and after retirement, started writing on issues of national security. He was concerned about the unhappy relations between military and civil services.

He passed away on 2 July 2018 in a hospital in Mumbai while battling thyroid cancer. His wife Vimla Nadkarni passed away in 2016. He is survived by two sons, one of whom is Rear Admiral Ravindra Jayant Nadkarni.

- Brigadier Suresh Chandra Sharma (retd.)

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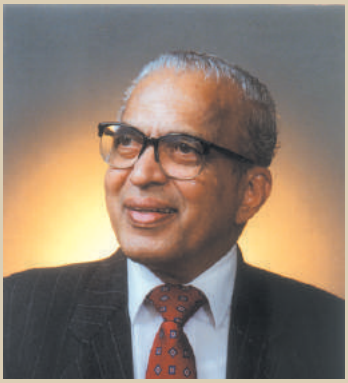

Sadanand A. Shetty, Founder Editor
(Mayober 9th, 1930 – February 23rd, 2007)
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