PRASHANT VILAS RANE
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Date: 2026.05.08

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUO MOTU IN WRIT PETITION NO. 1 OF 2024

High Court On Its Own Motion ...Petitioner
Versus
State Of Maharashtra Through Government Pleader ...Respondent

WITH
INTERIM APPLICATION NO.2407 OF 2025
WITH
INTERIM APPLICATION (L) NO. 28516 OF 2024
WITH
INTERIM APPLICATION NO.3917 OF 2024
WITH
INTERIM APPLICATION (L) NO. 30515 OF 2024
WITH
INTERIM APPLICATION NO. 3024 OF 2024
WITH
INTERIM APPLICATION (L) NO. 28846 OF 2024
WITH
INTERIM APPLICATION (L) NO. 28762 OF 2024
WITH
INTERIM APPLICATION (L) NO. 25664 OF 2024
WITH
INTERIM APPLICATION (L) NO. 25848 OF 2024
IN
SUO MOTU IN WRIT PETITION NO. 1 OF 2024

WITH
PUBLIC INTEREST LITIGATION NO. 83 OF 2019

Vijendra Kumar Rai ...Petitioner
Versus
State Of Maharashtra And 22 Others ...Respondent

WITH
PUBLIC INTEREST LITIGATION NO. 109 OF 2019

Vijendra Kumar Rai ...Petitioner
Versus
State Of Maharashtra And 21 Ors ...Respondent

WITH
CONTEMPT PETITION (L) NO.5058 OF 2024

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Navalben Kantilal Karia ...Petitioner
Versus
State of Maharashtra Thr. Government Pleader ...Respondent

WITH
CONTEMPT PETITION (L) NO.3760 OF 2023

Vijendra Kumar Rai ...Petitioner
Versus
Chief Executive Officer, SRA ...Respondent

WITH
CONTEMPT PETITION (L) NO.29681 OF 2023

Sadiqa Ali Abbas ...Petitioner
Versus
The State of Maharashtra Thr. Government Pleader ...Respondent

WITH
CONTEMPT PETITION (L) NO.5661 OF 2024

Mohammad Sharif Gulam Rasool Shaikh ...Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

WITH
INTERIM APPLICATION NO. 3179 OF 2023

Haseena Istiyak Ansari ...Applicant
Versus
Vijendra Kumar Rai and Ors. ...Respondents

WITH
SUO MOTO PIL NO. 2 OF 2023

High Court On Its Own Motion ...Petitioner
Versus
State Of Maharashtra ...Respondent

WITH
WRIT PETITION NO. 1292 OF 2018

Vijendra Kumar Rai ...Petitioner
Versus
State Of Maharashtra And 17 Ors. ...Respondent

WITH

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WRIT PETITION (ST) NO. 26454 OF 2023

A. B. Builders And Developers ...Petitioner
Versus
State Of Maharashtra ...Respondent

WITH
WRIT PETITION NO. 3571 OF 2023

Confederation Of Real Estate Developers
Association Of India ...Petitioner
Versus
The State Of Maharashtra Through The
Principal Secretary ...Respondent

WITH
WRIT PETITION NO. 115 OF 2024
WITH
INTERIM APPLICATION (L) NO.7753 OF 2024

Royal Netra Constructions Private Limited ...Petitioner
Versus
State Of Maharashtra Through The Principal Secretary ...Respondent

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Mr. Darius Khambata, Sr. Adv., Mr. Sharan Jagtiani, Sr. Adv., Ms. Naira Jejeebhoy Amicus Curiae, alongwith Mr. Priyank Kapadia, Mr.Chanan Parwani, Mr. Tushar Hathiramani, Mr. Tanmay Pawar, Shreenandini Mukhopadhyay, Mr. Muttahar Khan, Ms. Shraddha Achliya, Ms. Avani Divan, Ms. Sankalpita Mullick Mr. Samit Shukla, Mr. Siddharth Shah, Ms. Masira Shaikh - Nodal Officers.
Dr. Birendra Saraf, Sr. Adv a/w Mr. Vaibahav Charalwar for SRA in SMWP/1/2024.
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Mr. Mayur Khandeparkar a/w Mrs. Jasmine Kachalia, Mr. Aryan Srivastava, Mr. Viren Mandhle, Mr. Sahil Singh, Ms. Dhun Vinod Santosh i/b Wadia Ghandy & Co. for NAREDCO WEST FOUNDATION.
Ms. Gulnar Mistry a/w Mr. Akash Rebello, Mr. Prateek Pai, Mr. Peterasp Sasuri, Ms. Prachi Pandya i/b. Corporate Attorneys for Applicant in IAL/28730/2024.
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CONPPL/5661/2024, PIL/83/2019.
Mr. Prashant Kamble, AGP for State in CONPPL/5058/2024.
Mr. Atul Vanarse, AGP for State in SMP/2/2023, WP/1292/2018 and WPL/26454/2023.
Smt. Uma Palsuledesai, AGP for State in WP/3571/2023.
Mr. Dipesh Siroya, AGP for State in WP/115/2024 with IAL/7753/2024.
Mr. Joel Carlos a/w Ms. Jyoti Mhatre i/b Komal Punjabi for BMC.
Mr. Jagdish G. Aradwad (Reddy) for R. No. 13 To 16 in PIL/83/2019, for R. No. 2 & 3 in WPL/26454/2023 and WP/115/2024, for R. No. 7 to 10 in WP/1292/2018.
Mr. P. G. Lad for MHADA in SMWP/1/2024.
Mr. Vijay D. Patil a/w Ms. Ruchi Patil i/b Mr. Abhijit Patil for R. No. 2 SRA in CONPPL/5058/2024, R. No. 2 To 5 SRA in CONPPL/5661/2024, for R. No. 1 & 2 SRA in CONPPL/3760/2023 and for R. No. 6/SRA in PIL/109/2019 and for SRA in CONPPL/29681/2023.
Dr. Birendra Saraf, A. G. a/w Mr. Jagdish G. Aradwad (Reddy), Mr. Vaibhav Charalwar for R. No. 2 & 3 in WP/3571/2023.
Mr. Y. R. Mishra a/w Mr. D. P. Singh, Mr. Sachidanand T. Singh for R. No. 22 U. O. I. in PIL/109/2019.
Mr. Vinay Nair i/b Arun Panickar for R. No. 4 in WP/115/2024.
Mr. Haaris Reshamwala i/b Diamond & Co. for R. No. 9 To 16 in PIL/109/2019
Mr. Sandeep Dhangar a/w Ms. Kinjal Kakkad, Ms. Kinjal Upadhyaya i/b Jayesh R. Vyas for R. No. 17.
Mr. Ative Patel a/w Viraj Raiyani i/b AVP Partners for R. No. 21.
Mr. Viraj Parikh, Mr. Samit Shukla, Mr. Siddharth Shah, Masira Shaikh i/b Tri Legal for MCHI –CREDAI.
Mr. Kirti Munshi a/w Mayur Thorat and Ankit Tripathi i/b Jariwala Associates for Skycon Infrasturcture, Landowners.
Mr. Mihir Desai, Sr. Adv. a/w Rishika Agarwal for Slum Dwellers.
Mr. Rajiv Kumar, Sr. Adv. a/w Ms. Sheetal Kumar, Mr. Jimish Shah, Mr. Rahil Jhaveri, Mr. Kushan Kumar and Ms. Nirvi Shah for N D Bhuta Charities Trust, Landowner.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 8 MAY, 2026

JUDGMENT (PER G. S. KULKARNI, J.)

1. The judgment has been divided into the following sections to facilitate analysis:-

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A. Prologue

2. In several decisions of this Court, serious concerns were expressed on there being something drastically amiss in the implementation of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short '**the Slum Act**'), and more particularly considering the chaotic situation brought about by an avalanche of disputes reaching the Courts being generated under the Slum Act. The Courts were not mute spectators, as telling observations were made in several decisions of this Court and the Supreme Court. These concerns stand succinctly captured in the recent decision of the Supreme Court in **Yash Developers Vs. Harihar Krupa Co-Operative Housing Society Ltd. and Ors.**[1]. Their Lordships eminently felt that it was high time that there is a "performance audit" of the slum legislation expressing serious concerns on the implementation of the Slum Act. The Supreme Court, hence, intended that this Court, after hearing the stakeholders, make recommendations to the State Government on issues as underscored, and in terms of its observations made in paragraphs 59 to 66. Such observations read thus:

> "**59.** The Executive branch has a constitutional duty to ensure that the purpose and object of a statute is accomplished while implementing it. It has the additional duty to closely monitor the working of a statute and must have a continuous and a real time assessment of the impact that the statute is having. As stated above, reviewing and assessing the implementation of a statute is an integral part of Rule of Law. The purpose of such review is to ensure that *a law is working out in practice as it was intended. If not, to understand the reason and address it quickly*. It is in this perspective that this Court has, in a number of cases, directed the Executive to carry a performance/assessment audit of a statute or has suggested amendments to the provisions of a particular enactment so as to remove perceived infirmities in its working.

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1 (2024) 9 SCC 606

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60. Constitutional courts are fully justified in giving such directions as they are in a unique position of perceiving the working of a statute while exercising judicial review, during which they could identify the fault-lines in the implementation of a statute. This extraordinary capacity to assess the working of a statute is available to the judicial institution because of its unique position where : (*i*) disputes, based on the statutory provisions unfold before it, (*ii*) claims of rights or allegations of dereliction of duties are raised with varied, and sometimes, contradictory interpretations of the same text of the statute, (*iii*) submissions of lawyers opens up a debate and as officers of the Court experienced lawyers would lay bare the fault-lines in the statutory scheme, (*iv*) many a times court silently witnesses the play of statutory power relegating the deserving to the backseat, and the undeserving taking away all the benefits.

61. Laws that are made by Parliament or the Legislative Assemblies create rights, entitlements, duties or liabilities. Application of such empowerments or disabilities gives rise to competing claims or conflicting interests. For resolution of these disputes, constitutional courts provide public law remedies [Judicial control of administrative action in our country, the effective and the most prolific, has evolved from its classical scrutiny of ultra vires exercise of power, to a whole set of procedural and substantive principles, such as: legality, procedural propriety, reasonableness, legitimate expectation, proportionality, transparency, legal certainty, accountability, level playing field, consultation or participation, etc. These principles are now well entrenched in our judicial review processes and are part of our administrative law. In fact, bulk of judicial review proceedings initiated before the High Courts examine if the power exercised is within its bounds.] where claims and contestations are decided by the High Courts on a case-by-case basis. Judicial review is generally episodic, and is intended to resolve the lis on a case-to-case basis. Though cases are decided on their own merit and the lis disposed of, what is left behind is the institutional memory of the Court about the working of the statute and its interpretation preserved as precedents. Over a period of time, a critical mass of adjudicatory determinations on the working of the statute is built. This critical mass, coupled with the experiences gained by the Judges and the Court on the working of the statute, is of immense value for auditing the working of the legislation. It enables the court to assess whether the purpose and object of the Act is being achieved or not.

62. The traditional perception of the constitutional role of writ courts was confined to judicial review of executive and legislative action. In that role, the courts were to decide the vires of the legislative and executive actions based on constitutional parameters. Not only have the tools of judicial review been reinvented (the rise of the proportionality and arbitrariness doctrines) but also the breadth of the judicial power has substantially expanded to areas that were hitherto forbidden (review of policy decisions, constitutional amendments and continuing mandamus being prime examples). However, even this expansive reading of judicial review does not capture the essence of the judicial branch in its entirety.

63. There is yet another role which the judiciary can and ought to perform—that of facilitator of access to justice and effective functioning of constitutional bodies. In this role, the judiciary does not review executive and legislative actions, but only nudges and provides impetus to systemic reforms. The statute in question is one which was intended to benefit the marginalised and the impoverished. It is not easy for the intended

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beneficiaries of this legislation to carry their voice to legislative branch for effective reform. The exercise that this Court intends to direct presently is aimed at facilitating their access to legislative and executive reform, which this Court believes is an essential component of constitutional justice. That all justice is to be achieved only through courtroom debates is too myopic an understanding of constitutional justice. The facilitative role is not just inspired from the institutional role that the judiciary perceives for itself, but is also a directive of many of the fundamental rights in Part III and the cherished preambular vision of justice—social, economic and political.

64. A peculiar feature of how our legislative system works is that an overwhelming majority of legislations are introduced and carried through by the Government, with very few private member bills being introduced and debated. In such circumstances, the judicial role does encompass, in this Court's understanding, the power, nay the duty to direct the executive branch to review the working of statutes and audit the statutory impact. It is not possible to exhaustively enlist the circumstances and standards that will trigger such a judicial direction. One can only state that this direction must be predicated on a finding that the statute has through demonstrable judicial data or other cogent material failed to ameliorate the conditions of the beneficiaries. The courts will also do well, to arrive the very least, at a prima facie finding that much statutory schemes and procedures are gridlocked in bureaucratic or judicial quagmires that impede or delay statutory objectives. This facilitative role the judiciary compels audit of the legislation, promote debate and discussion but does not and cannot compel legislative reforms.

65. In light of the foregoing, considering that the Act is a State legislation, implementation of which lies with the State of Maharashtra, and till date no comprehensive statutory audit has been undertaken, we request the learned Chief Justice of the Bombay High Court to constitute a Bench to initiate suo motu proceedings for reviewing the working of the statute to identify the cause of the problems indicated in para 56. The Bench concerned will hear the Government, the statutory authorities, the necessary stakeholders including intended beneficiaries and perhaps take the assistance of some senior members of the Bar specialising in this area as Amici Curiae. We leave it to the High Court to devise such methods as it deems fit and appropriate.

66. Having examined the matter, the Bench may consider directing the Government to constitute a committee for performance audit of the Act. The court's jurisdiction extends only to that extent, and no further. The law-making, including amendments, is the exclusive domain of the legislature."

(emphasis supplied)

3. In pursuance of such orders of the Supreme Court in **Yash Developers** (supra), Hon'ble the Chief Justice has constituted this Bench to address the issue on the performance audit of the Slum Act, and more particularly in terms of the issues as set out in paragraph 56 of the said decision (supra).

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4. The task, thus, assigned to this Bench is to identify the multitude of challenges and the problems in relation to the redevelopment of slums and more particularly the eight issues as flagged by the Supreme Court in paragraph 56 of the said judgment, so as to achieve the object of the legislation, which is to completely eradicate the slums by providing decent living to the slum dwellers and to achieve a vision of slum free cities.

5. It needs to be observed that the decision of the Supreme Court in **Yash Developers** (supra) was rendered in the proceedings which were carried to the Supreme Court, from the orders passed by this Court in which this Court had made significant observations in regard to the infirmities in the implementation of the Slum Act derailing the object to be achieved by the legislation.

6. After the constitution of this Bench, we had requested Mr. Darius Khambata, Mr. Sharan Jagtiani, learned Senior Counsel and Ms. Naira Jeejeebhoy, learned Counsel, to assist the Court as Amici who have painstakingly assisted the Court on several issues which arise for consideration. We have also heard different stakeholders who are represented by learned Counsel Mr. Sukrit Parashar, Ms. Yashi Bhatt, Ms. Gulnar Mistry, Mr. Akash Rebello, Ms. Janvi Dutt, Mr. Joel Carlos, Mr. Jagdish G. Aradwad (Reddy), Mr. Arun Panickar, Ms. Sayali Apte with Ms. Anjali Maskar, Mr. Arjun Srivastava, Mr. Nitesh Acharya, Mr. Sandeep Dhangar, Mr. Ativ Patel and Mr. Y. R. Mishra.

7. The official respondents were represented with the lead submissions of Dr. Birendra Saraf, learned Advocate General with Smt. Jyoti Chavan, Addl.

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Government Pleader, Mr. Mohit Jadhav, Addl. GP, Mr. Vaibhav Charalwar, 'B' Panel Counsel, Mr. Vikrant Parshurami, AGP, Ms. Vrushali Kabre, AGP, Mr. Prashant Kamble, AGP, Mr. Atul Vanarse, Mr. Dipesh Siroya, AGP for State.

B. Conspectus of the concerns expressed by the Courts on the Slum Act:

8. About four decades and six years back in **State of Maharashtra v. Shri Mahadeo Pandharinath Dhole**[2], the Division Bench of this Court made important observations concerning the purpose and functioning of the Slum Act. It was observed that in the years 1971 and 1973 Slum Acts were enacted as "**intermediary remedial measures**", to address widespread slum conditions in Maharashtra. The other observations being : The objective of the legislation was to improve, regulate, clear, and redevelop slum areas, not to perpetuate them. Basic civic amenities provided to slum dwellers under the Acts are temporary arrangements and not permanent entitlements; they are meant only until slums are removed, and residents are shifted into proper housing. The Acts provide ad-hoc solutions necessitated by uncontrolled urban growth, making the complete absence of slums unrealistic in the immediate future. Without such legislation, slums could become a danger to public health, safety, and convenience, and a nuisance to surrounding areas. The State, as a welfare State, is obligated to regulate and control slums rather than accept them as permanent fixtures. The 1971 and 1973 Acts are consistent with and advance the objectives of the Town Planning Act, 1966, by facilitating orderly development and redevelopment. Achieving the goals of the Town Planning Act would be extremely difficult

2 AIR 1980 Bom 348

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without the Slum Acts. These Acts must be read harmoniously as complementary modern solutions to urban problems. Though one may hope for a future where slum-related laws become unnecessary, that stage has not yet arrived. Authorities are therefore bound to act strictly in accordance with the provisions of these Acts until slums are fully eradicated. While considering the challenge to an order passed by the Tribunal constituted under the Slum Act on the issue of declaration of an area as a slum, the Division Bench made the following observations :-

> "22. The two enactments viz., the 1971 and the 1973 Acts, are meant to provide for remedies of a nature basically intermediary in character. Taking cognizance of the large slum areas in certain parts of the State, the State **Legislature thought it fit to pass legislation to make better provisions for the improvement and clearance of those areas as also for their re-development. The object of these two enactments is not to perpetuate slums but to regulate the same, clear the same and re-develop the property in question. The object also is to provide to the slum dwellers at large certain basic necessities such as water, sanitary arrangements, light etc. and these basic amenities are to be provided to the slum dwellers not as a matter of any permanent feature but indicated in the preamble to the 1973 Act:**
>
> "x x x until such time as these Slums are removed and the persons settled and housed in proper buildings.
>
> 23. **The 1971 and the 1973 Acts are thus, to our mind, ad-hoc solutions to ad-hoc problems which problems have, to an extent, become inherent in the very growth, development and progress of modern towns and cities in the State. A dream situation would, of course, be total absence of any slums. But there seems to be a long way to go to realize the same. In the meanwhile, slums have arisen and do crop up. Necessity knows no law. But to accept these slums as they are would be the very negation of the duties of a modern welfare State.** Since overnight clearance of slums appears to be a problem beyond the immediate reach of the State the State Legislature has rightly chosen the next rest step viz., to regulate and control the slums and to see to it that these do not become a source of danger to the health, safety and convenience not only of the slum dwellers but also the surrounding areas and to also see to it that these do not become a source of nuisance to the public. These are the very specific objects embodied in the preamble to the 1973 Act and for the fulfillment of which the said Act has been enacted.
>
> 24. **The object of Town Planning Act is to make provision for planning the development and use of land, to make better provision for the preparation of development plan, to provide for the creation of new towns etc. The objects of the 1971 and the 1973 Acts is not, in our view, inconsistent with the object of the Town Planning Act, 1966. Indeed, the objects of the 1971 and the 1973 Acts are objects on steps in aid of the fulfillment of the objects and aims behind the Town Planning Act, 1966.**

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> The fulfillment of the objects and aims of the Town Planning Act, 1966, would become extremely difficult, if not well highly impossible, if laws such as the 1971 and the 1973 Acts are not passed and implemented. Absence of laws such as the 1971 and the 1973 Acts can itself result in frustrating or defeating at least some of the objects of the Town Planning Act, 1966. These three enactments have, therefore, to be read harmoniously and have to be construed accordingly. They are modern solutions and remedies to the ever-emerging new problems of modern times. Though one may hope for the times when Acts such as the Slum Areas Act, 1971, and the Slum Improvement Board Act, 1973, outlive their existence and are no longer round necessary for the purposes of fulfillment of the modern welfare activities of the State and though one may also hope for the times when slum areas would be a thing of the past, still till at least that stage arrives and is reached the community at large and citizens such as respondent No. 1 herein will have to accept and abide by the provisions of these laws."
>
> ("emphasis supplied")

9. A Full Bench of this Court, in **Sara Harry D'Mello Vs. State of Maharashtra and Ors**[3], in the context of acquisition of land under Section 14(1) of the Slum Act, held that the acquisition of slum land under the Slum Act is not merely for the benefit of a larger number of persons residing in sub-human conditions in slums, but also to ensure that the improvement of their living conditions leads to an overall improvement in the urban economy, which is very much dependent on the labour force being supplied by the occupants of the hutments in the slums.

10. In **Indian Cork Mills Private Limited Vs. State of Maharashtra**[4], the Court analyzed the legislative intent of the Slum Act and the rights of landowners in the context of compulsory acquisition. It was observed that the Court recognizes, the significant challenges, urban areas face in managing slums and balancing the rights of slum dwellers with the rights of private landowners whose lands are encroached. The central issue before the Court was whether private land could

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3 (2013) 4 Mah. L.J. 348

4 2018 SCC OnLine Bom 1214

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be compulsorily acquired for slum redevelopment, and whether landowners have a preferential right to redevelop their own property. The observations made by the Court are significant : Rapid industrialization led to mass migration to cities, creating overcrowding and large slum clusters on both public and private lands due to inadequate public housing and planning failures. Authorities often neglected to protect open lands from encroachment and also failed to utilize private lands appropriately, contributing to formation of slums and unhealthy living conditions. Slum-related problems were longstanding, with increasing complexity due to competing interests, monetary gains, and delays in slum rehabilitation projects. Article 21's guarantee of the right to livelihood and dignity, along with Directive Principles (Articles 38, 39, 43 and 47), require the State to improve living conditions and public health. Slums posed dangers to health, safety, and morals, and existing municipal laws were insufficient; hence, a special comprehensive law (the Slum Act) was enacted for uniform management, improvement, and clearance of slums.

10.1 The Slum Act imposes onerous duties on authorities to improve slum conditions and facilitate redevelopment in a manner consistent with legislative intent. The Act creates statutory rights in favour of landowners and occupiers to undertake redevelopment, and such rights cannot be ignored merely because acquisition machinery exists. Acquisition must strictly follow Chapter I-A and cannot bypass or negate the statutory rights conferred on owners/occupants to undertake redevelopment themselves. The basic legislative objective includes participation of landowners in redevelopment, reflected in Sections 3B(4)(e) and

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13(1) and (2); these rights cannot be overlooked is acquisition of land for redevelopment of the slums and rehabilitation of the slum dwellers on such land, under the Slum Act. Acquisition that ignores or overrides these participatory rights would be contrary to the legislative scheme and is not permissible. A harmonious interpretation is required so that land acquisition is used only when the statutory purpose of redevelopment cannot be achieved by any other method. The Court held that Section 14 acquisition powers must be exercised fairly and only when the owner/occupant fails to submit or execute a redevelopment scheme within a reasonable time after being called upon. There is no fixed statutory time frame for landowners/occupants to submit redevelopment proposals; what is reasonable depends on the facts and circumstances. Before acquisition, authorities must record reasons showing why redevelopment by the owner was not possible and how acquisition became necessary. The owner must always be given a reasonable opportunity to show cause before any order under Section 13(1) or Section 13(2) is passed. Acquisition without such procedural fairness violates Article 300-A (Right to Property) and cannot be sustained. The Court acknowledged that while FSI incentives under the Slum Act help eradicate slums, involving private developers, however this can introduce strong commercial interests which may dominate, making public accountability essential. Authorities need to strike a dual balance between public interest and legitimate private developer interests so that the scheme remains viable and fair. Many slum projects fail or stagnate because developers with insufficient expertise or wherewithal are appointed, Courts often encounter such cases. Where the

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landowner himself is willing and capable of redeveloping the slum on his land, the law recognizes his right to do so, and such right must be honoured before resorting to acquisition. There is nothing illegitimate in permitting the landowner to redevelop his own slum-affected land; only upon his persistent failure can compulsory acquisition be justified. In the context of the rights of owners of private land being peremptory which would override the interest of slum dwellers in relation to the acquisition of private land by the slum authority for redevelopment of slums, the Court made the following pertinent observations:

> "3. In recent times in all urban areas we see large scale building activities, city of Mumbai is not an exception and in fact would be the epicenter of such activity, with skyscrapers being built wherever land is available and the city has to grow only vertically. Apart from slums on public lands there are as well slums on large private lands. Thus large part of the development activity is also the development of slums and slum rehabilitation areas. What would be the nature of the statutory rights of private owners of land, in re-development of such slum areas under the Slum Act? Whether the owner of the land would have a preferential right to undertake re-development or the only method to redevelop such areas would be to resort to compulsory acquisition of such private land are the question as posed in this petition.
>
> .....
>
> 44. It would be apposite to consider the statutory background in which the controversy in the petition would fall. There are too many causes which are attributable for creation of slums in urban areas. Rapid growth of industries resulted in mass migration of population from rural areas to the urban centres. This for the reason that places outside the urban areas were not proving sufficient and fulfilling the requirements of the means of livelihood, which were primarily depending on agriculture and other allied activities. This resulted into overcrowding of the urban areas coupled with lack of housing facilities, which created development of large slums in the urban centers and heavily so in and around Greater Mumbai as also other urban areas in, Maharashtra. The development in urban activities and business did not find a corresponding development in the housing sector, much less a provision for a decent housing for such large migrant population. Also lack of planning by the concerned authorities to cater to the housing requirements, the neglect of the authorities to safeguard open public lands from encroachment as also the apathy of the private landlords to prevent encroachment and/or to neglect the appropriate use of land so as to prevent them being converted as slums by the occupants, added to the urban problems. Consequently in the absence of affordable public and

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private housing, large population was compelled to reside in slums in unhealthy and unhygienic conditions. It is difficult to visualize the number of slums which are created on public and private lands in the city of Mumbai, where land is limited. As the history unfolds the problems are not recent. They are further aggravated and have become complex and more particularly due to variety of interests playing active roles in slum projects, rehabilitation projects in anticipation of monetary gains. This has been the general scenario in such litigation, with which the Court is frequently confronted.

45. We have one of the most ideal Constitution providing for a variety of fundamental and other legal rights guaranteed to our citizens. Part III, of the Constitution guarantees fundamental rights, under which Article 21 confers right to livelihood, which has been interpreted to mean, that a person is entitled to live a life of dignity and not just an animal life. Further the Directive Principles of State Policy as contained in Part IV of the Constitution, under Article 38 and 39 provide for the welfare of the people and the policy to be followed by the State. Article 43 and 47 are also relevant when it comes to the obligations of the State to secure adequate standard of living and improvement of public health.

46. Undoubtedly, slums had created menace to the safety, health and morals of the inhabitants. There were multiple municipal laws in operation, there was no uniformity in the provisions of these enactments as also the provisions were not sufficient to improve the situation. It is for this reason the legislature thought it appropriate to enact a special law to deal with the improvement clearance and development of slum areas. The Slum Act was accordingly enacted inter alia to make better provision for the improvement and clearance of slum areas in the State, for redevelopment as also for the protection of occupiers from eviction and distress warrants. The Slum Act, was brought into force with effect from 11 August 1971. This legislation casts onerous duties on the authorities. How far the same are discharged and whether at all effectively to achieve the object of the legislation, are larger issues which all the concerned need to ponder.

67. In our opinion considering the in-built mechanism which is available under the clear provisions of section 3B(4)(c) and (e), Section 13(1) and (2) of the Slum Act, which empower the SRA to develop the land by entrusting it to any agency recognized by it, any interpretation of the compulsory acquisition provision (Section 14), oblivious to the due consideration of these specific provisions of the Act, which enable the SRA to bring about a re-development of the slum rehabilitation areas without acquisition of the land, would amount to defeating such specific provisions and creating unwarranted concentration of coercive and arbitrary power of acquisition with the SRA.

74. .....The law nowhere provides an automatic mandatory obligation on any person to undertake a redevelopment scheme on the declaration of such area as a slum or a slum rehabilitation area and in our opinion rightly so. In the present case this issue would also go to the root of the matter as the decision to acquire has been taken by the State Government for the sole and the only reason that the petitioner had not submitted a scheme for the redevelopment of the land, which in fact is a reason available for the SRA to pass an order under section 13(1) of the Act (as falling under Chapter IA) to appoint an agency and entrust the re-development to such agency.

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75. ……...Thus unless it is determined for reasons to be recorded in writing, as to how it is an unreasonable delay in submitting a scheme, this conclusion to be the basis of acquisition, cannot satisfy the test of fairness and reasonableness, and more particularly when the SRA/State Government is depriving the person of the valuable constitutional right to property guaranteed under Article 300-A of the Constitution.

79. **No doubt the above rules conferring FSI benefits are a laudable piece of legislation which enables the authorities to eradicate the slums in urban areas, however when such redevelopment involves third parties to be appointed and approved by the authorities to undertake the redevelopment, commercial interest become dominant. Such interest are bound be varied depending on the quantum of the area and the location of the slums. Thus the authorities in discharging their public duties under the Slum Act are required to satisfy a dual test namely of balancing the public interest and at the same time taking care of the legitimate private interest so that the scheme becomes viable. This includes appointment of such private parties to undertake development who possess technical ability coupled with substantial ability to undertake such schemes. We can surely take judicial notice of the litigation which has reached this court where, slum projects are languishing for want of such parties not completing the projects or abandoning the projects and variety of complications arising from such half executed projects. We have felt the need to record this for the reason that, many of such projects may pertain to lands which are acquired under the Slum Act. Thus if the land owner is himself interested to develop the land and that law confers such rights on the landowner/landholder or the occupant then it would surely be in the fitness of things that such legal rights are first recognized before the other powers are invoked. There can be nothing illegitimate in the landowner himself being granted an opportunity of redeveloping his land under slums, instead of another developer doing it and only on his persistent failure the authority can certainly resort to acquire the land.**"

("emphasis supplied")

11. In **Susme Builders Private Limited Vs. Chief Executive Officer, Slum Rehabilitation Authority and Ors.**[5], the Court interpreted the scope of SRA's powers under Section 13(2) and related provisions. The Supreme Court rejected the submission that SRA has unlimited powers under Section 13(2); instead, it held that SRA may take over the project only in specific situations, namely: (i) Contravention of plans approved; (ii) Breach of restrictions/conditions imposed under Section 12(10); (iii) Failure to complete development within time. The requirement of timely completion flows from the Letter of Intent (LOI) issued by

5 (2018) 2 SCC 230

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SRA and from agreements between slum-dwellers and the developer; violation triggers Section 13(2). When there is a clearance order under Section 12(10), SRA's power to act arises only if conditions in the clearance order are violated; otherwise, SRA cannot automatically invoke Section 13(2). Even assuming SRA had no express power under Section 13(2), it still possesses the authority to cancel the LOI because the LOI is issued by SRA itself; hence, SRA cannot be powerless to revoke it. SRA's powers are also derived from Section 3-A(3)(c) & (d), which require SRA to ensure implementation of the Slum Rehabilitation Scheme and take all necessary steps for achieving the objective of slum rehabilitation. These provisions show that SRA is not merely empowered but is duty-bound to intervene where needed, especially when slum-dwellers have suffered for decades because of delays by developers. In this case, Susme Builders had a dual role, first as the power-of-attorney holder of the owner and as a developer appointed by the society, which heightened the conflict. Since the redevelopment work could not proceed without SRA's permission, SRA retained the power to revoke such permission due to the developer's unjustified delay. The Court held that SRA's action in removing Susme from the project after a 25-year delay was justified, as slum-dwellers had suffered enough and the statutory objective of rehabilitation demanded intervention. The observations made by the Supreme Court are as follows :-

> 45. We cannot accept such a wide submission. According to us, under Section 13(2) of the Slum Act, the SRA has the authority to take action and hand over the development of land to some other recognised agency under three circumstances:
>
> (i) When there is contravention of the plans duly approved;
>
> (ii) When there is contravention of any restriction or condition

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imposed under sub-section (10) of Section 12 of the Slum Act; and

(iii) When the development has not taken place within time, if any, specified.

46. The requirement to complete the development within time may be there in the letter of intent issued by the SRA or may be in the agreement entered into between the owner/developer with the slum-dwellers. Such condition, if violated, would attract the provisions of Section 13(2) of the Slum Act. Over and above that, when a clearance order is passed, then in terms of sub-section (10) of Section 12, the competent authority can include a condition with regard to the time within which the development should be completed and, in that case, also Section 13(2) would be attracted. We are not, however, able to accept the very wide argument that in case of delay, the condition that is violated must be laid down under Section 12(10) of the Slum Act.

47. There may be cases where the slum-dwellers do not offer any resistance and willingly consent to move into transit accommodation provided by the owner/developer. Therefore, the conditions laid down under Section 12(10) will come into play only when there is a clearance order, but in case there is no clearance order, then under Section 13(2), the SRA would be empowered to take action when there is violation of any plan or when there is violation of any condition relating to developing the project within time. The time-limit can, some time, be provided in the letter of intent, in the agreement or even in the regulations.

48. Having held so, we are of the view that Shri Darius Khambata, learned Senior Counsel, is right in his submission that normally under Section 13(2) of the Slum Act, action by the SRA has to be taken against the owner. Here, we may repeat that this is a unique case where the slum-dwellers are the members of the owner Society. The Society, in turn, has given power of attorney to the builder. The builder virtually has two roles—one as developer and the other as power-of-attorney holder of the owner. Both are closely interlinked and inextricably mixed with each other. Therefore, though normally we would have accepted the contention that under Section 13(2) action can only be taken against the owner, in the present case, we are unable to accept this contention in its totality. We may point out that even the SRA, in its order, has itself noted that since the Society is the owner of the plot of land, it is empowered and within its right to terminate the agreement executed with the said developer for breaches committed by the developer. It has, however, held that a private dispute between the Society and the developer cannot prevent the SRA from discharging its obligations. The SRA agreed with the submission made by the Society that Susme had not completed the project within time. It has taken action under Section 13(2) of the Slum Act. The action taken by the SRA is to remove Susme as developer which amounts to cancelling the letter of intent issued in favour of Susme.

49. Otherwise, there would be an anomalous situation where the Society would have terminated its contract with Susme but the letter of intent issued by the SRA would continue to hold the field and it would be entitled to develop the land. The Society approached the SRA, in fact, asking it to take action against Susme. Since the SRA is the authority which issued the letter of intent, it will definitely have the power to cancel the letter of intent.

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50. We are of the considered view that in the peculiar facts and circumstances of the case where the slum-dwellers are virtually the owners of the land as members of the owner Society, the SRA had the power under Section 13(2) of the Slum Act to issue the order dated 24-2-2012.

Whether the SRA has any other power to remove the developer

51. Even if we were to assume that the SRA did not enjoy this power under Section 13(2) of the Slum Act, we are of the considered view that since it was the SRA which issued this letter of intent, it necessarily must have the power to cancel the same. The SRA can also derive this power under clauses (*c*) and (*d*) of sub-section (3) of Section 3-A of the Slum Act, which read as under:

> "**3-A.** ***Slum Rehabilitation Authority for implementing Slum Rehabilitation Scheme.***—(1) Notwithstanding anything contained in the foregoing provisions, the State Government may, by notification in the Official Gazette, appoint an authority to be called the Slum Rehabilitation Authority for such area or areas as may be specified in the notification; and different authorities may be appointed for different areas.
>
> ***
>
> (3) The powers, duties and functions of the Slum Rehabilitation Authority shall be—
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> ***
>
> (*c*) to get the Slum Rehabilitation Scheme implemented;
>
> (*d*) to do all such other acts and things as may be necessary for achieving the objects of rehabilitation of slums."

52. A bare reading of these provisions shows that in terms of clauses (*c*) and (*d*) of sub-section (3) of Section 3-A of the Slum Act, the SRA not only has the power, but it is duty-bound to get the slum rehabilitation scheme implemented and to do all such other acts and things as will be necessary for achieving the object of rehabilitation of slums. In this case, the SRA was faced with a situation where the slum-dwellers were suffering for more than 25 years and, therefore the action taken by SRA to remove Susme for the unjustified delay was totally justified.

53. A perusal of the various provisions of the Slum Act would show that normally in a case falling under the Slum Act, it is the owner of the land, whether it be the Government, a statutory authority or a private person, who will be interested in the development work. Normally, the occupiers will be encroachers of slum land. Therefore, there will be a conflict of interest between the occupiers and the owner. The owner, in turn, will always engage a developer/builder to carry out the development work. In case the owner gives a power of attorney to the developer, as in the present case, the developer now has two identities — (*i*) the power-of-attorney holder of the owner, and (*ii*) the developer. As far as the present case is concerned, the Society is made up of the members who are occupiers and this Society has given power of attorney to the developer Susme. Therefore, the developer Susme is actually having a dual role of owner and developer. Both the letters of intent have been issued in favour of the Society, Susme and the architects of Susme. Susme could not have carried

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> out the development work on the basis of its agreement with the Society. It needed the permission of the SRA. Therefore, SRA can obviously revoke such permission."
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> ("emphasis supplied")

12. In **Galaxy Enterprises Vs. State of Maharashtra**[6], this Court expressed serious systemic concerns about the functioning of slum rehabilitation in Mumbai. The Court noted that the Supreme Court and High Court decisions emphasized the need for expeditious and effective rehabilitation of slum dwellers living in inhuman conditions, to fulfill the object of the Slum Act. Despite the long existence of the Slum Act (1971). It was observed that large number of disputes on such front still reaching was indication of the fact that slum eradication and rehabilitation efforts are not functioning with the required efficiency and direction. The observations of the Division Bench *inter alia* touched the following :

> "12.1 Slum dwellers often lack knowledge of slum redevelopment schemes and are vulnerable to manipulation by so-called leaders and developers, leading to mistrust, disputes, and derailment of rehabilitation projects. Many slum schemes remain incomplete for years and are stuck in litigation or administrative delays, defeating the very purpose of speedy slum redevelopment. The Court questioned whether the SRA has a robust panel of genuine developers with the technical and financial capacity to undertake redevelopment, noting that the selection process must be open, fair, and transparent. The burden on slum dwellers to appoint developers and pursue redevelopment was unreasonable; the State and SRA must take a more proactive role to ensure professional, time-bound redevelopment. Redevelopment must be undertaken by honest, credible, and trustworthy developers appointed through the SRA or other statutory bodies and not left solely to the slum dwellers who lack capacity and resources. The Government and SRA must urgently examine systemic failures and devise a foolproof mechanism to resolve recurring issues and implement the beneficial objectives of the Slum Act.
>
> 12.2 The Court criticized the authorities for adopting a myopic approach, failing to enforce statutory obligations, and allowing slum schemes to remain stagnant for years without satisfactory explanation. The authorities must monitor schemes closely, ensure commencement and timely completion, and prevent delays that defeat the Slum Act's objectives.

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Developers or agents who exploit slum projects for commercial gain must be reprimanded and prevented from treating redevelopment as a mere commodity. The SRA cannot continue with a developer when the society loses confidence in him; a developer appointment is not absolute and must serve the purpose and object of rehabilitation.

12.3 In cases where land belongs to MHADA or the State, it is the responsibility of these authorities to ensure prompt rehabilitation of slum dwellers, and their inaction or neglect cannot be justified. The record of the court proceedings showed that MHADA and State authorities failed to utilize the law effectively and allowed private developers to take over, leaving slum dwellers helpless. The Court stressed the need for a concrete government policy and a panel of reputed developers who can genuinely implement rehabilitation schemes efficiently. Dealing with government land requires responsible exercise of public power, and the State cannot abdicate its responsibility by leaving matters entirely to private developers. Effective guidance, strong policy direction, and timely action from the State are essential, especially in cities like Mumbai, where land scarcity makes slum redevelopment critically important. The State must urgently adopt such measures in Mumbai and other fast-developing cities before the situation becomes irreversible. Considering the volume of disputes reaching the Court under the Slum Acts, the Court made the following observations :-

"3. There is a wealth of decisions of the Supreme Court and this Court emphasizing on the expeditious and effective rehabilitation of slum dwellers, who live in inhuman conditions, so as to achieve in letter and spirit, the object and intention of a fairly old State legislation namely the "Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act 1971". Nonetheless, considering the volumes of disputes still reaching the Courts, it can certainly be said that time is ripe, if not too late, to ponder, whether things are realistically working in the right direction, to eradicate slums and rehabilitate the slum dwellers, with the desired efficacy and expedition. This not only at the hands of the authorities but also at the hands of the other stake is on the rules permitting, the selection and appointment of developers to undertake a Slum Rehabilitation Scheme, being conferred on the holders. The vital issue which has often led to controversy and disputes, slum dwellers, who are hardly expected to know the nitty-gritty of the slum redevelopment schemes. It is seen that the so called leaders of the slum dwellers who are themselves in need to be rehabilitated, are often lured by developers and their agents, and once a developer is appointed, what normally prevails is a constant fear of incertitude and skepticism amongst the slum dwellers, leading to disputes on variety of issues affecting their final rehabilitation. Such issues not only frustrate the very object of a speedy slum redevelopment but completely derail the slum schemes. It can be seen that scores of slum schemes have remained incomplete for years together and are languishing on such issues, either in litigation before Courts and/or before the authorities. These schemes need not face such ordeal, including of an unending litigation. To change the developer is no answer as even this process involves dispute resolution and ultimately lengthy litigation from one form to another.

4. Can the Slum Rehabilitation Authority not have a robust panel of bonafide developers who have genuine business interest to redevelop slums, of course with commercial benefits as conferred under the rules, and who can be appointed by an open and fair scheme of selection and allotment of slum projects and who would be accountable to the Authority.

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5. It is high time that, learning from the past experiences, the burden on the ill equipped slum dwellers to be responsible to appoint developers and pursue the redevelopment scheme is removed and to do away the ordeal of the slum dwellers to go on knocking the doors of different authorities for years together when the developers fail to perform. Redevelopment to be undertaken professionally and in a time bound manner is the need of the day, even to fulfill the ideals, which the Government intends to achieve. What is necessary is the initiative of a redevelopment, by genuine, honest and trustworthy developers appointed through the Slum Authority or any other Special Body created for the said purpose and not to leave it to the slum dwellers to re-develop the slums. This for the reason that the slum dwellers are supposed to be merely interested in their rehabilitation and can have no other interest. All these efforts are necessary, as a step forward to achieve an object of having an ideal city free of slums. It cannot be countenanced that the slums be redeveloped only when the slum dwellers feel the need of a redevelopment and the Government Authorities cannot initiate redevelopment and cannot initiate a suo motu action in that behalf. It is hence, for the Government and the Slum Authority to give its anxious consideration to these issues and in its wisdom to device a substantial, nay a foolproof mechanism, by undertaking a study and identify these grey areas, so that the helping hand as extended by the legislature in providing this beneficial law as far back in 1971 that is almost 50 years back is held strongly and firmly by all concerned. It is never too late.

57. There cannot be a myopic approach to these issues of a delay in implementation of a slum rehabilitation scheme. Things as they stand are required to be seen in their entirety. The only mantra for the slum schemes to be implemented is it's time bound completion and a machinery to be evolved by the authorities, to have effective measures in that direction to monitor the schemes as a part of their statutory obligation to avoid delays. Non-commencement of the slum scheme for long years and substantial delay in completion of the slum schemes should be a thing of the past. In the present case, looked from any apple there is no plausible explanation forthcoming for the delay of so many years at the hands of the petitioner to take bare minimum, steps to commence construction.

58. The authorities should weed away and reprimand persons who ate hot genuine developers and who are merely agents and dealers in slum schemes. These persons after get themselves appointed as I developers, yo ultimately deal/sell the slum schemes, as if it is a commodity. Any loopholes in the rules to this effect, therefore, are required to be sealed.

60. In any case, the developer cannot be said to possess a vested right which would mandate the SRA to continue it's appointment, for such delay and when the body appointing the said developer namely the society itself, in the given set of facts, bonafide and for an acceptable reasons, lacks confidence in the petitioner as appointed by Between the slum society and the developer, it is merely a contractual dispute, It cannot be said that the society in adverse circumstances would have no authority in a resolution so passed by the majority to remove a developer. The role of the S.R.A. under law is to further the interest of the slum scheme by exercise of it's powers in the best interest of the slum redevelopment and pass such appropriate orders to achieve the said object, in exercising its power inter alia under Section 13(2) of the Slums Act.

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65. Before parting, it needs to be noted that the land in question is a land belonging to the State Government/MHADA and if the land is under slums and the occupants are suffering, whether it would also not be the responsibility of the MHADA considering the provisions of Chapter IX of the Maharashtra Housing and Area Development Act 1976, being a chapter on "Environmental Improvement of Slums", providing for Section 104 to Section 113 of the said Act, to take time to time actions and consider with utmost priority the rehabilitation of the slum dwellers?. **It clearly appears that in the present case, the entire re-development of the slums is left in the hands of the developer by the slum dwellers, who are struggling to appoint one developer after another. The MHADA appears to be an absolute alien when all these actions are being taken by the society.** Already, about three developers are appointed by the Society including the present developer M/s. Bindra, as noted above, despite this whether the slum dwellers will at all see the light of the day, is a factor which is required to be seriously considered by the slum rehabilitation authority and the MHADA by having a compliance and a follow up mechanism. It is high time that at least in regard to the slums on government lands or land belonging to a public bodies, the government needs to have a concrete and effective policy and which include a panel of reputed contractors/developers which would genuinely undertake and implement the slum rehabilitation scheme and bring a speedy and effective rehabilitation of slum dwellers. This is required to be observed for the simple reason that the record in the present petition would clearly show that the MHADA or the State authorities have not utilised and/or have turned a blind eye to the provisions of the law to take effective steps in the larger interest of the society, instead things were completely left at the hands of a private developer and the helpless sum dwellers. Dealing with the Government land certainly involves dealing with the public largess. Surely the hands of the State and its authorities are not so weak. What is required is a willingness and an able and authoritative guidance from those who wield these powers for public good. As noted, it would be for the good wisdom of the State and its policy makers to deliberate on these issues which are "also" of immense importance to a city like Mumbai where large parts of the limited lands are under slums. Such approach also needs to be timely adopted for the other fast developing cities in Maharashtra, where the government land is scarce, before it is too late."

("emphasis supplied")

13. In **Abdul Majid Vakil Ahmad Patvekari Vs. Slum Rehabilitation Authority & Ors.**[7], the Division Bench of this Court addressed issues of encroachment on government land and the limits of rehabilitation rights. The Court held that encroachers on Government land do not acquire any right under the Slum Rehabilitation Scheme merely because they have remained on such land for some time. The State's policy to protect slum dwellers cannot be stretched to elevate

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their occupation of Government land into a protected or permanent right. Slum dwellers can only be rehabilitated on the same land if feasible, or else in nearby alternate accommodation; they cannot insist on retaining possession of Government land. Encroachment on public land cannot be tolerated, and prompt action is required to remove encroachments, especially where authorities knowingly allow such occupation for long periods. Long-standing encroachments create a false expectation in encroachers that they are entitled to rehabilitation at public cost, which is contrary to Government policies. Negligence of officers in failing to protect public lands forces the State to later acquire private lands for public projects, causing unnecessary financial burden and wastage of taxpayer money. The Court criticized Government policies that effectively reward encroachers by granting free rehabilitation benefits, describing such policies as contrary to public trust principles. The Court questioned whether any audit had been undertaken to assess the extent of Government land lost to encroachments and steps taken to prevent further loss. Loss of public land due to encroachments affects the availability of land for essential public institutions and utilities, undermining the functioning of the democratic system. The State must restore encroached Government lands and ensure they are used strictly for public purposes; genuine political will is required to protect public property. Encroachers on Government land cannot demand rehabilitation as a matter of right, nor can such a right be equated with ownership or compensation. The intention of the Slum Act and State policies is not to compensate encroachers for occupation of Government land but to rehabilitate slum dwellers in accordance

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with lawful policy. If the petitioners' stand were accepted, it would become impossible for the State to undertake public projects on Government land for the larger public good. The Court in the said decision observed that encroachers on Government land have no right under the Slum Rehabilitation Scheme and made the following observations :-

> "9. Having heard the learned counsel for the parties and having perused the record, at the outset, we may observe that the petitioners, who initially encroached on the Government land and who had remained on the same for sometime so as to fall within the beneficial policy of the State Government of being protected slum dwellers, cannot elevate their protection to such an extent that such slum dwellers have to be rehabilitated either on the same land, if any remaining after the project work is completed or they be provided a permanent alternate accommodation within the vicinity. In our clear opinion, any encroachment on public land at the threshold ought not to be tolerated and prompt action is required to be taken to remove such encroachment, more particularly when those who are custodians of the public land are well aware that encroachments for long periods will clothe the encroachers with rights to seek rehabilitation at public costs under the prevalent Government policies. It is not new that valuable Government land on account of the negligent approach of the officers in charge by not protecting such lands from encroachment have stood extinguished from the Government's holding, causing a serious cascading effect, namely, that whenever land is required for any public purpose, the Government is required to acquire the same from private holdings, causing an unwarranted burden on the public exchequer and a sheer waste of the tax payers money. This for the reason that the Government despite its mighty machinery did not protect its valuable land and permitted to be encroached to be developed by the slum dwellers and their developer, with the Government nowhere in the picture. Such inaction, in our opinion, amounts to grossest violation of the public trust doctrine as a result of the patent abuse of the powers vested in such Government machinery in not protecting public property. We also have a grave doubt about the policy of the State Government which rewards the encroachers of the public land by a free of cost accommodation. In our opinion, such policies qua the Government land nor only violate the principles of equality but certainly fall foul of the doctrine of public trust. We wonder as to whether at any point of time an audit in regard to the encroached Government land or lands belonging to public authorities in the State of Maharashtra was undertaken. As to how many such lands have vanished due to encroachment and as to what steps have been taken to preserve such lands are questions which need to be answered to "we the people", and accountability fixed for negligence in this regard. We say so, as there can be no two opinions that even land for important public institutions and other government utilities is not available, which certainly has adversely affected the very functioning of such institutions in a democratic set up. We hope that the Government awakens on such issues before it is too late and restores all the encroached Government lands for

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> the benefit of public and strictly to be used for public purposes. This would certainly require a genuine political will and consciousness towards larger public benefit.
>
> 10. The petitioners occupying Government land cannot take such an adamant stand as canvassed by them, when they are occupying Government land. Mere rights of rehabilitation cannot be recognized to be equivalent to a right of ownership or as if it is some compensation being offered to the slum dwellers for their encroachment and occupation of Government land. This is neither the intention nor the object even of the slum legislation and slum policies of the State Government. The insistence of the petitioners if accepted and that too in the context of the 'State' undertaking such public projects, it would be impossible to plan any such project using the Government land for the benefit of the public at large."
>
> ("emphasis supplied")

14. In **High Court on its own motion (In the matter of Jilani Building at Bhiwandi) vs. Bhiwandi Nizampur Municipal Corporation and Ors.**[8], the Division Bench of this Court, while exercising PIL jurisdiction, made extensive observations on illegal constructions, slum proliferation, and administrative failure. The Court reiterate that the main object of the Slum Act is the expeditious and effective rehabilitation of slum dwellers living in inhuman conditions, but the rising volume of disputes shows that this objective is not being achieved in practice. Persistent disputes arise because slum dwellers are unaware of redevelopment processes and are often misled by so-called "leaders" influenced by developers, resulting in loss of trust and prolonged litigation. Many slum redevelopment schemes remain incomplete for years, and the existing system fosters delays, lack of transparency, and exploitation of slum dwellers, defeating the very purpose of the Slum Act.

15. Appointment of developers must be based on fairness, transparency, and credibility, as unfit or dishonest developers derail schemes and cause immense hardship to slum dwellers. The burden cannot be placed entirely on slum

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dwellers to monitor developers; the State must adopt foolproof mechanisms, maintain strict oversight, and ensure timely completion. There must be no myopic approach; authorities are required to actively monitor progress, enforce statutory obligations, and prevent delays in commencement and completion of schemes. Authorities must reprimand and restrain non-genuine developers and middlemen who treat slum redevelopment as a commodity, thereby defeating public purpose. The Court emphasizes that the SRA must act in the larger interest of slum dwellers, including removing developers who fail to perform, even if societies initially appointed them.

16. Encroachers on government land cannot claim an equivalent right to rehabilitation; mere rehabilitation benefits cannot be elevated to ownership rights or be treated as compensation for encroachment. Government cannot be compelled to spare public land for encroachers in a manner that obstructs public projects; policies must not reward illegal occupation of valuable government land. Sustained encroachment on government land is often encouraged by authorities' inaction, creating massive losses to the exchequer and incentivizing further encroachment. Such policies violate the public trust doctrine, as public land is diverted to private hands under the guise of slum rehabilitation, contrary to constitutional obligations. Long-standing failure to audit encroached public lands and fix accountability of negligent officers has allowed encroachments to proliferate and public land to vanish without trace. Illegal construction, unauthorized encroachments, and the collapse of structures reflect systemic lawlessness and administrative apathy, severely threatening public safety. Political

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influence, vested interests, and slumlords create an environment where enforcement is weak, illegal structures remain, and public land is continuously grabbed.

17. Numerous circulars issued by the State to remove encroachments and unauthorized constructions were never effectively implemented, turning official directives into “dead letters.” The municipal corporation and planning authorities have statutory duties to verify and remove unauthorized structures, including those in slum areas, but have consistently failed to act.

18. Section 47 of the Slum Act does not restrict the planning authority’s power to act against illegal structures in slum areas; authorities cannot use the Slum Act as an excuse for inaction. Dereliction of duty by municipal and government officers has aided the proliferation of slums, the grabbing of government land, and structural dangers, forcing citizens to seek refuge in slums. The MCGM, as planning authority, retains jurisdiction to take action against unauthorized and illegal structures across the entire Mumbai region, even in slum areas. Authorities must not succumb to external pressures or vested interests; they must enforce construction, planning, and slum laws rigorously to prevent future calamities.

19. Illegal encroachments and unauthorized constructions divide society into two classes, firstly of law-abiding citizens who suffer, and secondly, those who profit by violating the law with impunity, often with official support. Rewarding encroachers with free tenements encourages illegality and siphons public land for private gain, directly breaching constitutional governance norms.

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20. Public officials who fail to discharge their duties or evade accountability undermine the rule of law and derail constitutional machinery; courts are compelled to intervene to restore public confidence. Anti-corruption mechanisms must be strengthened due to rampant corruption in municipal governance, where officers deliberately avoid action against illegalities. Exponential growth of slums and illegal constructions stems from the absence of long-term planning and failure to create adequate mass housing for the working population.

21. Migrant workforce needs legitimate housing, and unplanned slum growth cannot substitute for state's failure; the right to housing is part of Article 21 and international human rights law. Mumbai's severe housing burden and massive inequalities between luxury developments and surrounding slums reflect systemic planning failures and disregard for public needs. Despite large municipal budgets, the State and corporations fail to allocate adequate financial resources for affordable housing and proper urban planning. A dangerous nexus exists among politicians, developers, bureaucrats, and slumlords, enabling encroachment, regularization, and later redevelopment for private profit under the guise of helping slum dwellers. Laws designed to protect weaker sections are misused to facilitate commercial exploitation, betraying public trust and constitutional values. Governance has become driven by political motives rather than constitutional obligations, with the ultimate casualty being the compassionate Constitution and public welfare. The following are some of the significant observations made by the Court :-

> "3. **We are informed by the Corporation that a vast portion of the scarce land in the city is under slums, which includes all kinds of lands, namely,**

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the State Government lands, land belonging to public bodies as also to a small extent, private lands. The percentage of population in Mumbai and outskirts is also too large. **We wonder, that when slums are openly allowed to proliferate on scarce and valuable public land, whether the well established principles under the "rule of law" at all prevails in relation to the rules, to transfer ownership of such lands from the "State" to the private parties.** Something which possibly does not happen elsewhere in the country, is what has pained us, namely, that sustained encroachment on valuable government land in this city is encouraged to the benefit of encroachers and developers and becomes available for commercial exploitation. It cannot be expected, that on executive instructions and subordinate legislation, the State's ownership of land stands divested. The severity is such that when this land is being taken away by these forces, the owner of the land, namely, the Government or a public body and sometimes the private owner (if fails to assert his rights), has no say whatsoever. It becomes a situation of fait accompli. **Is this the manner in which the law would require scarce public largesse or private land to be siphoned off, merely because it has the garb of a slum? Whether or not the doctrine of public trust applies when the government land is taken away in a manner not known to the Constitution? Whether the might of the unscrupulous forces is so strong that even the law makers would turn a blind eye to such Constitutional requirements ? These are some of the issues raising a deeper concern when we think about collapse of structures in the slum areas.**

45. There can be no two opinions that the issues of encroachment on public land, mushrooming of slums on such lands and illegal constructions on such land, as also, on any open land in the city, and the total collapse of the machinery available in law to control these issues, adversely affecting the urban agglomeration, is a sad story of an invited misery and a massive failure on the part of the State Government and the municipal bodies. An overview of these adversities, depicts a sorry and painful state of affairs, having a harmful and an overbearing effect not only on those who are residing in the slums and unauthorized constructions, but also, the hard impact it creates on the infrastructure in cities and the continuous and successive damage to the limited resources. The consequence of all this, is ghastly and harmful. As to what is in store for the future generations cannot be imagined. Admittedly, these are larger issues to be effectively looked into by the policy makers before things further worsen, albeit there appears to be a stage of no return, unless aggressive planning and commitment to the constitutional principles is kept at the forefront by the policy makers. Happening of encroachments, unauthorized and illegal structures being put up and deliberate neglect to these issues, when all this is unpleasantly happening before the open eyes and to the knowledge of the authorities, is not without purpose. From the report of the learned Commissioner, it appears to be a deep rooted menace, perpetrated for years together, which has ruined the cities and its scare resources. There are vested interests as pointed out by the learned Commissioner, namely political interest, slumlords and ultimately the cancer of corruption, which is the primary cause, for the authorities not taking action to remove illegal structures which continue to exist for years together.

46. However, it clearly appears that the State Government being aware of the grabbing of Government lands at the hands of these unscrupulous elements, from time to time, issued directives to the Additional Collector

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(Encroachment), Chief Executive Officer of the Slum Authority and other Chief Officers of the local authorities. Such directives made it incumbent to take all steps to protect the Government lands, by preventing grabbing of lands by encroachment and to register criminal complaints of such encroachment and taking stern action of demolition of the unauthorized constructions and unauthorized hutments. However, it appears that the said directives at all material times have remained to be dead letters. Learned Commissioner has referred to some of the Circulars, which, if were to be implemented in its letter and spirit, the scenario would have been completely different, from what it prevails today. The city would have been a better place to live. Hundreds of Government lands could have been saved, to be utilized for public purposes. The circulars are certainly binding on the Government and its officers, provided the officers had an intention to look at them. The directives as contained in some of the Circulars are required to be noted with particular emphasis of their relevant contents. They read thus: (I) By Government Circular dated September 19, 2003 issued to the CEO, SRA, Additional Collector (Encroachment & Removal), Mumbai City, Eastern Suburb, Western Suburb and the Director, Mumbai Development Division, on removal of unauthorized constructions and unauthorized hutments on semi-Government and private lands, guidelines were issued stating that day by day encroachment, illegal constructions and illegal hutments are increasing on such category of lands and such activities are required to be controlled and which were sought to be controlled by various circulars as referred in the reference in the said circular. This circular stated that the respective divisions would be primarily responsible to protect such land, however, as the concerned division did not protect the lands, illegal constructions setting up of unauthorized hutments have taken place and have increased. It was directed that the concerned Division to take immediate steps to prepare a scheme to protect the lands. The circular records that all unauthorized hutments and illegal constructions in the hutment areas put up after 1 January 1995 should immediately be removed. It was also provided that if these instructions are not implemented by the concerned officer or there is negligence or delay in taking such action, in that event the proceedings would be initiated against him as per the provisions of the Slums Act. The officers were also instructed that in regard to the unauthorized constructions, the concerned officer shall meticulously and from time to time adhere to the different directives of the State Government. (II) By a further Circular dated September 7, 2010, the State Government again issued directives in regard to the prevention of encroachment, demolition of unauthorized construction/hutments and registering of complaints. The Circular stated that from time to time the directives were issued, however, there was no serious implementation of the said circular at the level of different divisions as noticed by the State Government. As a result of which the Government lands were encroached and are being grabbed. The Circular states that in some instances the persons in the adjoining areas and/or local people are opposing removal of encroachment and demolition of unauthorized structures and force is required to be used to resist such opposition which creates law and order problem. However, in this situation, considering the ownership of the Government in respect of its land, the Government machinery was required to register complaints, as for non-filing of such complaints, the police are not in a position to take action, as informed by the Home Department. Considering such situations, the Government issue the following directives:- (i) To notify all details of the Government land and which be displayed in the Revenue Office or in the office of the Local bodies at a

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prominent place alongwith which a clear notice be given that if the Government land is encroached, legal action would be taken in regard to such encroachment. (ii) If there is any encroachment on the Government land or the land belonging to the local bodies, immediate action be taken to remove the encroachment or to demolish the unauthorized construction. (iii) To prevent encroachment on the Government land is the responsibility of the respective Division in which the land is situated. For such reasons, the concerned Talathi, Circle Officer, and in respect of the forest land, the authorized officer, Gramsevak in respect of grazing lands and public lands and the Chief Officers of different municipal corporations, and in respect of other land where the Government land is in a particular division, the respective local officers, are under an obligation to immediately file a police complaint. In the event, there is any shifting of responsibilities to register a police complaint, the Senior Officers shall hold such officers responsible and take action. (III) On similar lines, a further circular dated 10 October 2013 was issued by the State Government in its Revenue and Forest Department, reiterating the directives as issued in the earlier circular dated 7 September 2010."

47. The menace of continued encroachments on Government lands and thereafter, illegal and unauthorized constructions being undertaken post encroachment, are also a result of an unwarranted protection being conferred on the slum dwellers by the policies of the State Government, which protect the interest of the slum dwellers by awarding a premium on such illegality. This merely for the reason that the government machinery failed to take any action to remove such encroachments and with impunity continued these encroachers to remain on government land for years together. The encroacPer se, hments are of two categories, those who have encroached for commercial purpose (those who have grabbed public land for installing shops etc.) and those who have encroached for putting up structures for residential user. Under the government policies both these encroachers are recognized and rewarded by providing alternate tenements of the nature they were occupying. The government policies issued from time to time to protect such encroachers, if their names are found in the voters list on a cut-off date being fixed at the ipse dixit of the Government. In our opinion, fixing of such arbitrary dates to protect the illegality of encroachment and ultimately to reward the encroachers with a free of cost permanent structure on the same government land, is certainly not an exercise of power, the constitutional principles would permit. These situations have added to the alarming woes of the city. It is no more a secret that these policies, which appear to be innocuous and intended to primarily protect the slum dwellers, resulted to be also of a political concern, as these large slums also constituted potential vote banks.

48. What can be the logic and any legal sanctity to a policy which rewards encroachment on public land by granting free of cost tenements, on the very same land amounting to a bonanza for its private exploitation? By such modus operandi, public land, merely because of it being encroached, vanishes from the public holding and most astonishingly the basis for the allotment of tenements under the redevelopment process, is identification of an encroacher by his voters ID, on the basis of an arbitrary cut-off date fixed by the government. In fact, such policies create a mechanism being made available to the slum dwellers and thereafter private interest like that of the developers, to obtain a surreptitious allotment of public/government land for commercial exploitation, for profits by a backdoor method,

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completely contrary to the well settled principles of allotment of State largesse, known to the Constitution. This more particularly, when there is an allotment of a small piece of public land for a lawful purpose, many a times there is a hue and cry. However, when large tracts of public land are being gulped by encroachers, would the legal machinery remain a mute spectator?

51. On the above backdrop, it would be appropriate to recapitulate some of the significant and glaring findings as made by the learned Commissioner, in the above context, which are as under:

a. The cutoff date of unauthorized hutment has been extended from time to time based on the representation made by the elected representatives.

b. Although the municipal corporation is routinely taking action on the unauthorized structures including in the slum areas but due to continuous extending of the cut-off dates by giving protection to the slum dwellers, it is difficult for it to plan definite demolition programme in the slums.

c. Within the MCGM area, there are various Government lands as also and various planning authorities such as MMRDA, MHADA, MBPT etc.

d. Due to high real estate costs in Mumbai, land mafias are actively involved in unauthorized constructions. The land mafias use their muscle power/threats, political influences to stall actions against unauthorized structures by pressurizing the lower-level staff working under the Designated Officers.

e. Such members of the municipal staff remain under constant fear of assault/attacks by such unscrupulous elements since they do not have regular police protection.

f. There are criminal elements involved in the unauthorized development, hence, it is not possible for the civic staff to take action without proper support of the police department. It thus becomes difficult to take immediate action on the unauthorized structures once they are erected illegally.

g. A sympathetic view is always taken by the elected members and the Courts about the demolition action and to dislodge such affected persons during four months of monsoon. In cases where the Court finds that the action initiated by the authorities are faulty and directs the authorities to follow due process of law in initiating demolition action, it is seen that in these situations the organized mafia misuses the ad-interim/interim orders passed in such matters and carry out unauthorized constructions, so as to change status of the structure from being 'ongoing work and unoccupied' to 'completed and occupied' structure. As on date, approximately 10,000 cases are pending in various courts with ad-interim/interim orders passed by the Courts, as a result, the unauthorized structures continue to exist for long periods and consistent follow up becomes really difficult.

77. We are, thus, of the clear opinion that the MCGM being a Planning Authority for the entire Greater Mumbai area (excluding those areas in which by law other planning authorities are appointed), the MCGM has

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jurisdiction to exercise all powers under the MMC Act as also the MRTP Act and the Slums Act, to take action against illegal structures as permissible in law, not only in regard to all such areas within its jurisdiction, but also the slum areas falling under the Slums Act, except when a demolition order has been made under the Slums Act. We find that even Section 4 of the Slums Act would cast no embargo on the MCGM to take appropriate action in regard to any buildings which are unauthorized and/or dilapidated. Per se, Section 4 does not prohibit the planning authority to exercise any of its authority in regard to the structures of the nature Section 4 would contemplate either before the area is declared as a "slum area" or after it is declared as a "slum area". It is nobody's case that prior to an area being declared as slum, the planning authority namely the MCGM would not have any authority under the MMC Act and the MRTP Act to take action against unauthorized construction in such areas in regard to structures in these areas. From a holistic reading of the provisions of the Slums Act as discussed above, it is difficult to conceive that merely because an area is declared to be a slum under Section 4, the planning authority would lose its control and authority to regulate the structure by implementing the provisions of the MMC Act and the MRTP Act in the event the structures are dilapidated and/or in any manner unauthorized.

80. Be that as it may, it is never too late. It is high time that the concerned officials from the MCGM as also the Collectorate become conscious and immediately start taking action on illegal structures and restore a regime of only lawful construction prevailing in the city. In taking such action, the Municipal Officers ought to overcome any extraneous pressures and other obstructive considerations which may be created by certain undesirable elements preventing them from discharging public duties of taking action against such constructions. The iron hands of the Municipal Officers cannot be tied down by such pressures and they need to work relentlessly, as the law would mandate.

84. Illegal encroachments and unauthorized structures are a menace and a potential danger not only to the city of Mumbai, which is being ruined by encroachments and illegal constructions, but also to the other bigger cities. These factors also depict a picture of absolute lawlessness in implementation of the municipal laws. This for more than one reason. Firstly, as seen from the State policies, it creates two categories of citizens, the first category is of those citizens who are law abiding, who would put up lawful construction and possess buildings/structures which are lawfully constructed thereby enjoying only the legitimate and permissible benefits therefrom. The second category is of those persons who brazenly violate law and put up illegal and unlawful constructions and enjoy with impunity such illegal structures, under the blessings of municipal and government officers. There is yet another category of persons, who illegally enter and encroach on public lands, construct unauthorized structures, they continue to reside in such structures for long periods with the blessings of all the authorities, and yet get rewarded under the government policies which offer them a premium on such illegality of encroachment, in entitling them with a free of cost accommodation, under the garb of slum redevelopment as made permissible under the State policies as discussed above. There cannot be a bigger unconstitutionality and breach of the public trust doctrine in such mechanism, under which valuable public largess is siphoned off from the pool of public assets to reward encroachers as also for private benefits.

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102. In the scheme of Constitutional governance, it is not possible for us to assume that a public official, howsoever high, or mighty or low, can remain without public accountability to "We the People". Failure of accountability and discharge of public duties and responsibilities which the law would mandate them to discharge, in our opinion, are anathema not only to the expectations of lawful governance, but would also bring about a colossal case of derailment of the Constitutional and legal machinery, resulting into patent societal injustice and a civic regime opposed to the rule of law. The issues, which we have discussed above, certainly cast a serious doubt as to whether the above expectations of the rule of law are at all fulfilled and/or are followed in breach. It is for such reason, when there is a glaring and an apparent failure on the part of the statutory authorities to comply their lawful duties and Constitutional expectations, and/or when there is a dent or a breach in enforcement of the laws, the Courts unhesitantly are required to step in, so as to correct those who are failing in the discharge of their lawful duties, of not only to remind them of such duties and obligations but use the strong arm of law to set the same enforced and restore the confidence and expectations of the citizens, in the rule of law. This would also certainly require the Court to strictly deal with such officials, as the law would mandate the Court to so deal with them. They ought not to be under any impression that they can evade law with impunity. The famous quote of Lord Acton that "power corrupts and absolute power corrupts absolutely" ought to be realized to be untrue and something of the past, in its applicability in public governance. This, more particularly, when the aim is to compete with the other countries of the world where not only the building laws are stringently followed but also the aesthetics in relation to constructions and building designs are given a great impetus, so that the cities do not become eye sores of brick and mortar. This apart, as echoed in every public policy, corruption in municipal governance should be brought to the books by establishing multiple layers of anti-corruption mechanism within and outside the organization and achieve strict application of the provisions of the Prevention of Corruption Act, 1988. This ought to be implemented with immediate urgency by keeping a vigil on those officers who in the absence of any hurdles are deliberately not taking actions against illegal and unauthorized constructions. It is only then that there can be a ray of hope and sunshine for the future generations.

105. On our way towards conclusion, we may note that a chaotic state of affairs of mushrooming of slums and unauthorized and illegal constructions in every possible pocket of open land could have been avoided, provided **there was a desire to have a proper vision and an effort to make an effective plan for mass public housing, which would cater to the housing needs, for a large percentage of population in a city like Mumbai. It cannot be overlooked that for a city as large as Mumbai or any other comparable city in the State, large work force and which may be migrant workforce is indispensable and perennially required, who cater to the various manpower requirements the city consumes. However, we find that in contemporary times, there is not much thought been given by the policy makers to such vital issues of affordable mass public housing, to be created to accommodate such large work force either temporarily or permanently. Moreover, the entire focus is on putting up skyscrapers on slum lands. It cannot be a situation that people from all parts of the country come to work in urban areas and there is no alternative to them but to encroach on government/public lands or private open lands and reside in filthy surroundings and in illegal structures. Such is the sorry state of affairs. Even**

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such persons have a right to live with dignity and in appropriate humane and pleasant livable surroundings.

106. The policy makers appear to have turned a complete blind eye to these requirements of legitimate housing for such workforce, without whom the basic activities in the city would collapse. This is not only the requirement as would emerge from the constitutional guarantee as enshrined under Article 21 of the Constitution, but also what the Universal Declaration of Human Rights (1948) would provide wherein housing rights are recognized, as a part of economic and socio-cultural rights, which would guarantee a right to a standard of living adequate for health and well-being of citizens, and include the right to food, clothing, housing and medical care along with provisions for necessary social services etc. Further the International Covenant on Economic, Social and Cultural Rights (ICESCR) which is ratified by 160 States including our country also includes recognition of housing rights as a part of the broader right to adequate living conditions as seen from Article 11(1) thereof.

108. Considering the progressive steps being taken by many other countries, we feel that our policies also ought not to lag behind, so as to achieve the goals for creating ideal and slum free cities keeping in mind the interest of the generations to come. Can we have a myopic vision and forget that the generations to come would also need playgrounds, open spaces, gardens, clean and hygiene surroundings. This considering the scenario that people go on putting constructions and more so, at the behest of vested interest, wherever there are open lands. There is a need of a fundamental thinking on these vital issues of planning. A vision on these issues needs more attention in contemporary planning. If timely attention is not devoted to such issues, it is quite likely, that for the future years, things would worsen and may create insurmountable suffering, of every kind, affecting human lives who live in such cities. Thus, a serious endeavour of the policy makers, as an emergent need, ought to be, to have well-planned cities which would cater to every possible facet of human life and not merely to create unplanned and chaotic towns. Any lack of vision on these issues would be fatal for times to come.

109. We thus cannot expect citizens to languish in filthy and unhygienic slums. The right to livelihood includes a right of decent living and not an animal existence. It would include a right to live with dignity and implicit in it, is a right to live in decent houses, opposed to filthy living conditions. This ought to be an issue of prime concern for the State, so to device means to create mass housing facilities for the poor and for the economically weaker sections of the society, who are forced to live in slums in bigger cities so as to earn their livelihood and whose need for the city is perhaps indispensable. An endeavour ought to be made to bring about an era to have cities with no slums. If such ideals are achieved, it would be a pride and glory for the generations to come who would then would be the beneficiaries of dignified and ideal cities.

114. Erstwhile Bombay, now Mumbai, is home to people coming from across the country in search of livelihood. This migration has not only added to the dense population making Mumbai the most populous Indian city, it has immensely burdened the housing sector so much so that 41.3% of the population live in slums. Any one taking an aerial view of Mumbai, also called the city of dreams, would be fascinated by the swanky sky-scrapers but disheartened by the structures at the foot of such sky-scrapers covered

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mostly by blue tarpaulin covers. These are the densely populated single storey or double storied slums accommodating almost a half of the population, which co-exist as neighbours with real estate developments of extravagance. Despite these pronounced inequalities, people here seem to have accepted that this is the way life should go on. Mumbai happens to be the financial capital of this great nation and the extent of developments that one can see having taken place in Maharashtra, are significant. The annual budget of the Municipal Corporation of Greater Mumbai is more than several midsized States of India. It is, therefore, not unreasonable to assume that sufficient financial resources are at its disposal, and one would have expected the Government and the Corporation, whoever was at their helm, to adequately plan development by making appropriate budgetary provisions for affordable housing projects for the not so fortunate working class of people living in slums. Regrettably, instead of moving in the direction to have a planned and sustainable development, the successive Governments together with the Corporation seem to have unabashedly allowed mushrooming of slums at the instance of squatters by encouraging them not only to encroach more and more of public property but, simultaneously, by enacting laws to protect such unauthorized occupation. Enacting laws to further the interests of the weaker sections of the society is the obligation of every State in terms of Part IV of the Constitution and any move in that behalf ought to and must be welcomed. People living in slums do equally have a right of decent living conditions, which can be ensured by relocating them with proper housing facilities. However, a vicious nexus involving high profile personalities, bureaucrats, builders and slum lords have created a situation where public property is first encroached without resistance being provided by the law enforcing agency, followed by a declaration of slum gradually progressing to redevelopment by builders ostensibly for slum dwellers but really to further the interests of the "haves". In the garb of legislation, in a novel manner, a fraction of the population including holders of public offices have continued to prosper by achieving their goals through impure means which are nothing short of betrayal of the trust that the people of this region have reposed in those responsible for an able governance. While it was the need of the hour to make housing projects a reality more effectively and with empathy, what has been laid bare is the apathy and indifference to cater to the needs of the hapless coupled with a complete lack of sensitivity. The reasons are not far to seek. Quite contrary to the ideals and values embodied in the Constitution which lay down the basic framework of the social and political structure of the country and sets out the objectives and goals to be pursued by the people in a common endeavor to secure happiness and welfare of every member of the society and despite taking oath to uphold the laws, actions of those in power and authority are now invariably driven by political motivations or other oblique considerations. No wonder, the casualty is the compassionate Constitution of ours."

("emphasis supplied")

22. In **Moinuddin Pashamiya Shaikh Vs. Slum Rehabilitation Authority**[9], the Court undertook a detailed examination of the structural failures in the SRA

9 2023 SCC OnLine Bom 2933

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system. It was observed that encroachments on public/government lands are widespread and undeniable. Over decades, unauthorized encroachments have proliferated, and the assumption that every slum dweller is impoverished lacks basis. In law, all slum structures are unauthorized; even an authorized structure doesn't become a "slum" merely because slum-like conditions surround it. Mixed settlements of authorized and unauthorized structures on one plot have created complex legal issues. Slums involve serious social, planning, engineering, and political problems; many people migrate to cities in search of livelihood, resulting in unplanned "informal settlements." The Slum Act provides the procedure for slum redevelopment: slum identification, notification, survey, LOI to the developer, Annexure II eligibility, and provision of free rehab units with transit rent. Developers receive free-sale FSI as consideration; rehab construction triggers phased rights to build free-sale units. Three systemic failures were identified - (i) rehab tenements are the core of redevelopment; (ii) these are provided free of cost to slum dwellers, creating high-value assets at public cost; (iii) there is no robust system to verify eligibility or prevent fraudulent claims; biometric verification started only recently. The combination of free housing, no monitoring, and lack of verification forms a "trifecta" at the heart of today's redevelopment crisis. Despite promises, slums have not reduced; they continue to expand, and conditions remain harsh. The Court reaffirmed the earlier rulings that the right to life includes the right to shelter, but there is no fundamental right to trespass, squat, or claim rehabilitation based on trespass. No constitutional principle gives a squatter a right to obtain a marketable asset free of

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cost. Public land is diverted to provide high-value real estate to encroachers while lawful home buyers pay mortgages for decades, creating deep injustice. Policies effectively reward illegal encroachment by guaranteeing free in-situ tenements at enormous public cost. Courts cannot ignore the injustice faced by honest citizens who lawfully purchase homes while encroachers receive free units. Evidence now shows large-scale trafficking and illicit dealing in free rehab units because they are high-value assets. The issue of whether redevelopment must always be in situ involves other complex considerations such as eviction, relocation, infrastructure, and transport which are beyond the Court's present scope. What is clear is the reaffirmation that State largesse cannot constitutionally be distributed to regularize trespass or reward unlawful occupation.

23. In **Sayunkta Sangarsh Samiti and Another Vs. State of Maharashtra and Ors.**[10], the Supreme Court analyzed the public law character of SRA schemes and the statutory obligations of authorities. It was observed that the slums in Mumbai reflect deep social and economic inequalities, driven largely by the migration of rural and marginalized populations seeking employment. Migrants, unable to afford formal housing, create informal settlements, which later become slums with extremely poor hygiene and temporary structures. Mumbai has the highest number of slum dwellers in India, which is nearly about 42% of its population (2011 census) and this is due to historic neglect of housing needs, dating back to colonial times.

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23.1 Past public bodies such as BIT (1898) and BDD (1920) attempted low-cost housing but could not meet the massive demand. Post-independence, slum policy shifted from demolition to welfare-oriented redevelopment, culminating in the Slum Act, 1971, which aims at improvement, protection from eviction, and redevelopment. The 1971 Act created the Slum Rehabilitation Authority (SRA) to plan and implement redevelopment schemes and ensure benefits for slum dwellers. SRA Schemes have a clear public law character, as the land involved is public or belongs to public authorities, and redevelopment must serve statutory welfare purposes. Private agreements cannot override SRA's statutory mandate; redevelopment must conform strictly to the Slum Act and Development Control Regulations. The Municipal Corporation has a central role in – (i) certifying eligible occupants; (ii) verifying genuine slum dwellers; (iii) ensuring public land is used solely for public welfare. The purpose of the Slum Act is rehabilitation, "not the commercial exploitation of public land"; hence, State authorities must regulate every stage of the scheme, namely, the submission and evaluation of proposals, scrutiny, sanction, and implementation. Although disputes between a slum society and a developer have a private element, private remedies are not exclusive, because the SRA has overriding statutory authority to enforce the public purpose. The State and the SRA must ensure that schemes are not misused, that the public purpose is upheld, and that rehabilitation does not become subordinated to private contractual interests.

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24. In **Bishop John Rodrigues Vs. State of Maharashtra**[11], a Division Bench of this Court examined compulsory acquisition of private land under the Slum Act and observed that the land in question was a small private plot of 1596.40 sq.m. with only 35 slum structures, owned by a Trust. The landowner consistently showed readiness and willingness to redevelop the slum structures by providing permanent alternate accommodation. Even a composite proposal covering both the Trust's larger land and the slum-occupied portion was legally permissible, and there was no legal bar on the petitioner undertaking redevelopment. If redevelopment by the petitioner became impossible due to reasons beyond the landowner's control, compulsory acquisition under Section 14 of the Slum Act could not be forced on the petitioner. Forcing compulsory acquisition without giving the landowner a fair opportunity to redevelop would be arbitrary, illegal, and violative of Article 300A (Right to Property).

24.1 Encroachment removal in Mumbai is a near-impossible task, with encroachments often supported by slumlords, politicians, and criminal elements, making protection of private land extremely difficult. Private owners regularly struggle to safeguard their land, while developers with resources often misuse slum redevelopment as a tool to capture valuable private property. Declaring private land as a slum under the Act starts a nightmarish process, effectively depriving the owner of normal ownership rights and exposing them to unjust acquisition pressures. Many schemes are, in reality, developer-driven, where developers form or control the so-called "slum society" to push proposals for FSI

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11 2024 SCC OnLine Bom 1632

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benefits. It is unacceptable that a willing landowner knocking at SRA's doors for redevelopment is instead issued a Section 14(1) notice of compulsory acquisition.

24.2 Before acquiring land, there must be insurmountable material on record showing that redevelopment by the landowner is impossible; only then can compulsory acquisition be justified. Authorities have an onerous duty to act fairly, objectively, and not privatize the process in favour of encroachers or developers under the guise of rehabilitation. Chapter I-A does not intend that once land is declared a slum and a cooperative slum society is formed, the owner gets no opportunity to redevelop. Section 13(1)'s requirement of giving 120 days' notice to landowners must be strictly followed before any decision to compulsorily acquire is taken. The law requires giving the landowner a meaningful opportunity to propose a rehabilitation scheme; failure to do so would violate Article 300A. The Court, in dealing with the acquisition of the private land under Section 14 of the Slum Act in the absence of the right of the owners being recognized in regard to the preferential redevelopment of the slum, has made the following observations:

> "99. The SRA and whosoever is concerned in regard to the slum redevelopment need to be conscious of the ground realities namely that it is an herculean task in a city like Mumbai to remove any encroachment on private and public land. It is equally difficult for a private owner of the land to safeguard its land and prevent encroachment. This is the sad story, as encroachment does not happen by such encroachers simplicitor squatting on the land, invariably the encroachment is backed inter alia by slumlords, criminals, social workers, politicians (as the squatters would be vote banks). For a bonafide landlord, it is impossible to fight with such forces and, keep litigating on removal of encroachment. Thus, to achieve removal of the encroachment, is seen to be impossible for the landlords and for public bodies like State Government and Municipal Corporation as also the Airport Authority, as major public lands in the City of Mumbai have vanished from the public pool and are subjected to private development by developers under the garb of slum re-development, as the rulings of this

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Court on several such issues would remind us of these woeful realities. In these circumstances, persons like the developers who are interested in commercial exploitation of any land under the slums may it be private or public, who are backed by other powerful forces and many times also by the government machinery, initiate proceedings under the Slum Rehabilitation Act for declaring private land as a slum. The moment such a declaration takes place, a nightmare and one of the most difficult journeys any citizen who owns land, commences namely to pursue litigation on such a declaration. It is hence as good as a preliminary capital punishment in so far as the ownership rights qua the private land are concerned. The way forward is just to be imagined. This being the case immediately developers who keep track on such development potential purportedly at the behest of the slum society come forward on a purported appointment by a slum society. In reality it is seen that it is the developer who actually forms the slum society. He is the one who is taking steps to enter into a development agreement with the society and the slum dwellers and put up a proposal before the SRA through his architect, everything in the name of the slum society. This for the reason that there is a bonanza of FSI of a free sale component available to be developed by the developer (The question is why should the developers have such bonanza on a land of somebody's ownership or of a private ownership. Thereafter, the SRA purporting to exercise some pious obligation would, under a label of social sympathy and purportedly to forward the object of the Slum Act, commence a process to permit development at the hands of such developer and in a given situation, start proceedings to acquire the land. To say the least, we can certainly take a judicial notice that this has been a sad reality, replete on this branch of slum jurisprudence, as majority of these cases are asserted by the developers with resources and legal ammunition they could have.

> 101. In these circumstances, when valuable private rights as guaranteed under Article 300A of the Constitution to an owner of the land are being deprived under the garb of slum rehabilitation, there has to be an insurmountable situation on record of the SRA or for any reasonable body of persons to come to an unimpeachable conclusion that the only and only remedy and/or avenue in a given case is to acquire the private land and not permit the owner of the land to undertake the development. The CEOSRA has an onerous obligation to reasonably, non-arbitrarily, and objectively deal with the valuable property rights of private citizens who are dragged in such situation that the monsters of encroachment and persons supporting them take the rule of law in their hands in depriving the land owner of his right to property. They forget that there is a rule of law and there are Courts and any such attempt to dent the rule of law can be dealt with iron hands. We may also add that if the official machinery was to act as per law, today we would not have been confronted with the situation of an international city like Mumbai being also known for its slums on private and public lands [See the observation of the Court in High Court on its own motion (In the matter of) Jilani Building at Bhiwandi v. Bhiwandi Nizampur Municipal Corporation)."
>
> ("emphasis supplied")

25. The decision of this Court in **Indian Cork Mills Private Ltd.** (supra) was upheld by the Supreme Court in subsequent decisions in **Tarabai Nagar**

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Cooperative Housing Society Vs. State of Maharashtra[12] and **Saldanha Real Estate Pvt. Ltd Vs. Bishop John Rodrigues and Ors.**[13]. In **Saldanha Real Estate Pvt. Ltd.** (supra), it was observed that the SRA and its CEO failed in their public duty, acting with bias to undermine the landowner's rights and favour a private builder (Saldanha). The Supreme Court found collusion, connivance, and misuse of authority, revealing a deliberate attempt to bypass statutory protections and hand over the land for private benefit. It was observed that Saldanha's influence over the SRA appeared so strong that the developer could push the project even during the COVID-19 lockdown, when public administration was otherwise paralysed. The Slum Act protects slum dwellers, but offers no explicit statutory protection to landowners; this gap creates a vacuum that opportunistic developers exploit. Developers manipulate slum dwellers and work "hand-in-glove" with authorities to illegally dispossess landowners and enrich themselves. The Supreme Court held that the acquisition proceedings, tainted by a colourable exercise of power, could not be allowed to continue. The High Court was correct in stopping the acquisition early, thereby protecting the statutory rights of the Church / Trust and preventing an illegal land grab by the developer. In the said decision, the Supreme Court made the following observations:

> "49. Throughout this case, the SRA and its CEO appear to have abandoned their public duty to uphold the Rule of Law and protect the rights of the landowner. On the contrary, the facts reveal a prejudiced attempt by the SRA to undermine legislative and judicial efforts and hand over the Subject Land and the benefits of its rehabilitation to Saldanha. Such actions of a public authority, marred by collusion and connivance and motivated by extraneous profit interests of private builders, are highly depreciable and underline the possibility of bureaucratic misuse of statutory

12 2025 INSC 1015
13 2025 SCC OnLine SC 1794

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provisions.

50. **The facts of the instant case compel us to infer that Saldanha's overreaching influence went beyond the slum-dwellers' proposed society. In its attempt to take over the Subject Land, the developer appears to have gotten the typically slow-moving bureaucratic wheels of the SRA to run at full speed. Moreover, Saldanha was able to achieve this manoeuvre at a time when the entire country was under lockdown and the machinery of governance was overwhelmed by the unprecedented challenges of the COVID-19 pandemic.**

51. These circumstances underpin the need for practical and actionable safeguards in a legal system involving competing interests among private parties. **The Slums Act, while providing wholesome protection to slum dwellers and their homes and livelihood, does not give such express protection to the interests of the owner of the land. The ensuing vacuum, as we have seen in these appeals, allows opportunistic developers to swoop in, exploit the circumstances of the poor slum dwellers, manipulate the hand-in-glove authorities, and enrich themselves off the helpless owner's land.**

52. Keeping the facts of this case and the obviously colourable conduct of the Appellants in mind, the acquisition proceedings cannot be allowed to sustain. As such, the High Court has rightly nipped these proceedings in the bud, protecting the statutory rights and interests of the Church Trust over the Subject Land and preventing the Appellants from illegally grabbing it."

("emphasis supplied")

26. A Nine Judge Constitution Bench of the Supreme Court in the case of **Property Owners Association and Others Vs. State of Maharashtra and Others**[14], was dealing with a reference raising significant questions about the applicability of Articles 39(b) and 31(c) of the Constitution. The issue arose from a decision of the Division Bench of this Court which upheld the Constitutionality of the provisions of Chapter VIIIA of the The Maharashtra Housing and Area Development Act, 1976. The High Court had held that the said provisions of the Chapter VIIIA were saved by the Article 31C, as they were enacted to give effect to the principles laid down in Article 39(b). The High Court held that the same principles applied to Chapter VIII-A as well while holding that the provisions of the said Chapter did not violate Article 14 of the Constitution. In view of the

14. (2024 SCC OnLine SC 3122)

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importance of the issues involved, a reference was made for the matter to be placed before a Nine-Judge Bench, as set out in paragraph 16 of the reference order. Although the scope of the reference pertained specifically to the interpretation of Article 39(b), and not to the continued validity or survival of Article 31C, it was contended by the parties that the determination should be confined to Article 39(b) and more particularly, only to the question of whether "material resources of the community" include privately owned resources. The observations made by the Supreme Court as relied upon by Mr. Khambata learned Amicus require to be noted –

> "257. An interpretation of Article 39(b) which places all private property within the net the phrase "material resources of the community" only satisfies one of the three requirements of the phrase, i.e. that the goods in question must be a 'resource'. However, it ignores the qualifiers that they must be "material" and "of the community". The use of the words "material" and "community" are not meaningless superfluities. We cannot adopt a construction of the provision which renders these terms otiose. The words "of the community" must be understood as distinct from the "individual". If Article 39(b) was meant to include all resources owned by an individual, it would state the "ownership and control of resources is so distributed as best to subserve the common good". Similarly, if the provision were to exclude privately owned resources, it would state"ownership and control of resources of the state..." instead of its current phrasing. The use of the word "of the community" rather than "of the state" indicates a specific intention to include some privately owned resources.
>
> 258. In essence, the text of the provision indicates that not all privately owned resources fall within the ambit of the phrase. However, privately owned resources are not excluded as a class and some private resources may be covered. The resource in question must meet the two qualifiers, i.e. it must be a "material" resources and it must be "of the community". Thus, the judgments doubted in the reference before us are incorrect to the extent that they hold that "all resources" of an individual are part of the community and thus, all private property is covered by the phrase "material resources of the community".
>
> 263. The right to property was included in the Constitution as a fundamental right under Articles 19(1)(f) and Article 31. Subsequently, the right to property was deleted from Part, Ill of the Constitution by the Constitution (Forty-fourth Amendment) Act, 1978. However, a modified version was inserted and the right to property continues to be constitutionally protected under Article 300A. Although no longer in the nature of a fundamental right, the provision has been characterised as a

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constitutional and human right.

264. A two-Judge Bench of this Court in Kolkata Municipal Corporation & v. Bimal Kumar Shah, speaking through Justice PS Narasimha, had occasion to discuss the scope and content of Article 300-A and the constitutional vision in relation to private property. This Court held that merely providing compensation does not justify compulsory acquisition by the state unless procedural safeguards are followed. It was observed that a "post-colonial reading" of the constitutional right to property cannot be limited to the twin conditions of (a) the acquisition being for a public purpose; and (b) payment of compensation, and must give way to morel meaningful renditions This Court observed:

> "28. While it is true that after the 44th Constitutional Amendment, the right to property drifted from Part III to Part XII of the Constitution, there continues to be a potent safety net against arbitrary acquisitions, hasty decision-making and unfair redressal mechanisms. [...] To assume that constitutional protection gets constricted to the mandate of a fair compensation would be a disingenuous reading of the text and, shall we say, offensive to the egalitarian spirit of the Constitution.
> 29. The constitutional discourse on compulsory acquisitions, has hitherto, rooted itself within the 'power of eminent domain'. Even within that articulation, the twin conditions of the acquisition being for a public purpose and subjecting the divestiture to the payment of compensation in lieu of acquisition were mandated. [...]
> A post-colonial reading of the Constitution cannot limit itself to these components alone. The binary reading of the constitutional right to property must give way to more meaningful renditions, where the larger right to property is seen as comprising intersecting sub-rights, each with a distinct character but interconnected to constitute the whole. These sub-rights weave themselves into each other, and as a consequence, State action or the legislation that results in the deprivation of private property must be measured against this constitutional net as a whole, and not just one or many of its strands".

265. The right to property under Article 300-A, this Court observed, may be seen as comprising of the following sub-rights which ensure that the procedure followed is just, fair and reasonable:

> "27. [...] i) duty of the State to inform the person that it intends to acquire his property - the right to notice, ii) the duty of the State to hear objections to the acquisition - the right to be heard, ill) the duty of the State to inform the person fits decision to acquire - the right to a reasoned decision, iv) the duty of the State to demonstrate that the acquisition is for public purpose - the duty to acquire only for public purpose, v) the duty of the State to restitute and rehabilitate - the right of restitution or fair compensation, vi) the duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings

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> - the right to an efficient and expeditious process, and vii) final conclusion of the proceedings leading to vesting - the right of conclusion."
>
> ("emphasis supplied")

27. In **Mujibur Rehman Chaudhary Vs. Municipal Corporation for Greater Mumbai**[15], the issue for consideration before this Court was whether an unauthorized vertical extension, namely, the construction of a Mezzanine/first floor to the existing structure of the appellant used as hotel (which itself was unauthorized), can receive a protection from an action of its removal by the municipal corporation, merely because the structure is situated in a notified slum. In rejecting the appeal and by not recognizing any protection, the Court has made the following observations:

> "31. It also needs to be stated that a photo-pass cannot be accepted to be a carta blanca or a blanket licence to put up an unauthorised, illegal construction. It is certainly within the jurisdiction and powers of the MCGM to take action against the structure, if any structure is put up illegally. If unauthorized and uncontrolled illegal constructions are permitted in slum areas, the ghastly consequences are not too far to be seen. In such context, the Division Bench of this Court in Jilani Building's Case (b) (supra) considering the provisions of Chapter I-B of the Slums Act has held that the protection which has been conferred by Section 3Z of the Slums Act to the protected occupiers, cannot be confused or interpreted to mean that the protected occupier enjoys and can be granted a complete immunity from putting up unauthorized construction or structure and/or can make illegal additions or alterations.
> …...
>
> 34. In the absence of specific provisions under the Slums Act for inclusion of commercial premises being recognized in the photo-pass under the provisions of the Slums Act, it would be difficult to accept that the Slums Act would recognize a commercial structure, in respect of which under the Slums Act a photo-pass can be issued. Moreover, the definition of 'dwelling structure' as defined under Section 3X(a) of the Slums Act, as rightly contended by Mr. Jagtiani, in my opinion, would be required to be interpreted in the context of the object, the Slums Act intends to achieve. The said definition reads thus:-
>
> > "3X. Definitions: In this Chapter, unless the context otherwise requires:- (a) "dwelling structure" means a structure used as a dwelling or otherwise and includes an

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15. 2023 SCC OnLine Bom 579

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> out-house, shed, hut or other enclosure or structure, whether of bricks, masonry, wood, mud, metal or any other material whatsoever;"

35. When the words 'dwelling or otherwise' are used in the definition of a "dwelling structure", and when the definition provides to include outhouse, shed, hut or other enclosure or structure, necessarily in my opinion, it would not include commercial premises which do not fit into any of the ingredients of such provision namely a structure used for dwelling or outhouse, shed, hut, as used in the said provision. In such context Mr. Jagatiani's reliance on the decision in Ramesh Appa Rao (supra) which has considered the Government policy under the Government Resolution dated 16 May 1996 that the commercial structure is not protected, would be apposite, however, subject to caveat that the subsequent Government Policies have deviated from the Government Resolution dated 16 May 1996 so as to grant protection to commercial structures."

("emphasis supplied")

28. In **Priya Construction Company Vs. The Slum Rehabilitation Authority & Ors**[16], the Division Bench of this Court referring to **Shree Sai Pawan SRA Chs Ltd Vs. CEO SRA & Ors**[17], the SRA made the following observations :-

> "4. This is not an isolated pronouncement. In any case, it has not been disturbed. It is a finding on a principle of law by a bench of coordinate strength; and it is therefore a binding precedent. On 27th February 2023, in (OS) Writ Petition No 9291 of 2022, Shree Sai Pawan SRA Chs Ltd v CEO SRA & Ors, and connected matters, we said:
>
> > 4. The reason is self-evident and we have repeated it again and again in series of judgments and orders. The fundamental point is this: This city is not for developers. The Slum Rehabilitation Act 1995 ("SRA") is not for developers. The Act is intended to serve a public welfare purpose. Developers are a means to that end. They are entitled to a free sale component provided by the incentive Floor Space Index ("FSI") but this is a consideration for their fulfilling their obligations under the contract (for there is always a development agreement) and under law, in the form of Letter of Intent issued by the Slum Rehabilitation Authority. Those obligations include not only the rebuilding or building of rehabilitation structures and tenements both commercial and residential, but also the payment of transit rent in the meantime or the providing of habitable transit accommodation. A developer who does not pay transit rent, does not provide habitable transit accommodation or otherwise is in default of his obligations, all of which have to be performed on a schedule and within a time frame, is not entitled to any of the benefits of the slum rehabilitation project, i.e., the free sale component. This is the overall architecture of the Maharashtra Slum Areas

16. 2023 SCC OnLine Bom 3202

17. 2023 SCC OnLine Bom 2964

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(Improvement, Clearance and Redevelopment) Act, 1971. As regards slum dwellers, only those who are found to be eligible are entitled to these benefits.

5. But this means that where there is a demonstrated default by the developers or by the co developers, then the privileges and entitlements are liable to be taken away for there is a complete failure of consideration. A party in default cannot be allowed to take advantage of its own wrong and failure. That would be profiteering and that too at public expense because many of these slum projects are on public lands — such as this one — and the developer is not being made to pay the cost of land.

6. Or, to put it differently, the developer can always be changed. The beneficiaries of a SRA project cannot.

(Emphasis added)

5. This is equally true of re-development of tenanted/cessed structures, and in every case where a re-development of home for existing occupiers or tenants are involved.

6. Thus, under SRA law, the obligations of the developer in whose name the Letter of Intent or LoI is issued are, inter alia, payment of transit rent and the construction of rehab homes for those entitled to rehabilitation according to sanctioned specifications. If these obligations are not met, then, as a matter of law, there is a failure of consideration and there is no right to any free sale unit. The sequencing is clear. The rights of the Developer recognised by SRA to free sale units are contingent and dependent on the performance by that Developer of obligations to the Society. If that LoI-holding Developer fails to perform the obligations, then no rights accrue to it."

("emphasis supplied")

29. In **Yash Developers** (supra) the Supreme Court considering the large amount of cases being filed under the Slum Act as noticed from the National Judicial Data Grid (NJDG), it was observed that the Slum Act is a beneficial legislation, intended to materialize the Constitutional assurance of dignity of the individual by providing basic housing, so integral to human life. However, the propensity and proclivity of the statute to generate litigation were observed to be worrisome. The Supreme Court observed that there seems to be a problem with the statutory framework for realizing the purpose and object of the statute. The relevant observations as made by the Court are required to be noted which read

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thus:-

> "51. Though we have disposed of this civil appeal by dismissing it, we must record that this case has provoked us to reflect on the working of this Act.
>
> 52. The Act came into being in 1971 and since then, for over five decades, the High Court has been exercising judicial review jurisdiction, disposing of writ petitions raising claims or challenges to the exercise of powers or dereliction of duties by authorities under the Act. Data fetched from National Judicial Data Grid (NJDG) reveals that a total of 1612 cases involving disputes arising under the Act are pending before the Bombay High Court. Of these, 135 cases are more than 10 years old. In the last 20 years, 4488 cases have been filed and disposed of under the said Act.
>
> 53. **Latest data from the Bombay High Court reveals that about 923 cases on the Appellate Side and 738 on the Original Side are pending adjudication. The Act is a beneficial legislation, intended to materialise the constitutional assurance of dignity of the individual by providing basic housing, so integral to human life. However, the propensity and the proclivity of the statute to generate litigation are worrisome. There seems to be a problem with the statutory framework for realising the purpose and object of the statute.**
>
> 54. In *Galaxy Enterprises* v. *State of Maharashtra* [*Galaxy Enterprises* v. *State of Maharashtra*, 2019 SCC OnLine Bom 897] the Bombay High Court has remarked that : (SCC OnLine Bom para 3)
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> > "*3.* … Nonetheless, considering the volumes of disputes still reaching the Courts, it can certainly be said that time is ripe, if not too late, to ponder, whether things are realistically working in the right direction, to eradicate slums and rehabilitate the slum dwellers, with the desired efficacy and expedition. This not only at the hands of the authorities but also at the hands of the other stakeholders. The vital issue which has often led to controversy and disputes, is on the rules permitting, the selection and appointment of developers to undertake a slum rehabilitation scheme, being conferred on the slum dwellers, who are hardly expected to know the nitty-gritty of the slum redevelopment schemes. It is seen that the so-called leaders of the slum dwellers who are themselves in need to be rehabilitated, are often lured by developers and their agents, and once a developer is appointed, what normally prevails is a constant fear of incertitude and scepticism amongst the slum dwellers, leading to disputes on variety of issues affecting their final rehabilitation. Such issues not only frustrate the very object of a speedy slum redevelopment but completely derail the slum schemes. It can be seen that scores of slum schemes have remained incomplete for years together and are languishing on such issues, either in litigation before courts and/or before the authorities. These schemes need not face such ordeal, including of an unending litigation. To change the developer is no answer as even this process involves dispute resolution and ultimately lengthy litigation from one forum to another."
>
> 55. Further, referring to the statutory scheme, as per which development is possible only when the slum dwellers feel the need and seek

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development, the High Court pointed out yet another problem about the statutory framework in the following terms : (*Galaxy Enterprises case* [*Galaxy Enterprises* v. *State of Maharashtra*, 2019 SCC OnLine Bom 897] , SCC OnLine Bom para 5)

> "*5*. … It cannot be countenanced that the slums be redeveloped only when the slum dwellers feel the need of a redevelopment and the Government Authorities cannot initiate redevelopment and cannot initiate a suo motu action in that behalf. It is hence, for the Government and the Slum Authority to give its anxious consideration to these issues and in its wisdom to devise a substantial, nay a foolproof mechanism, by undertaking a study and identify these grey areas, so that the helping hand as extended by the legislature in providing this beneficial law as far back in 1971 that is almost 50 years back is held strongly and firmly by all concerned. It is never too late."

56. The exasperation of the High Court about working of the Act is understandable. The present appeal is a classic example of why the High Court's concern is genuine. It has been noticed that the statutory scheme is problematic with respect to:

56.1. *Identification and declaration of land as a slum. This problem involves an examination of the role of authorities in giving such recognition, insidious intervention of builders in the said process cast doubts on the independence and integrity in the decision-making process;*

56.2. *Identification of slum dwellers : This involves a complicated process of proof of such a status, the attendant problem of groupism, giving rise to competing claims inevitably leading to litigation;*

56.3. *Selection of a developer : The Act leaves this decision to the cooperative society of slum dwellers and the majority decision is manipulated by competing and rival developers;*

56.4. Apportionment of the slum land between redevelopment area and sale area : This is yet another area where court has witnessed developers seeking to increase the proportion of the sale area, leading to contestation;

56.5. Obligation to provide transit accommodation for the slum dwellers pending redevelopment : Invariably, we see instances where the developer does not provide transit accommodation within time or provides an inadequate alternative in the form of a quantified amount towards rent. On the other hand, there are instances where some slum dwellers refuse to vacate the premises on the ground that the transit accommodation is either inconvenient or the amount offered is insufficient;

56.6. There are also issues of lack of independence and objectivity in the functioning of statutory authorities : This is a matter of serious concern. Courts have witnesses that the authorities have no independence and, their tenure is also short. Additionally, the functioning of these statutory authorities gives an indication that there could be a regulatory capture;

56.7. Another concern which exists is about the effectiveness of statutory remedies : Statutory remedies are ineffective and at the same time, lacking in accountability; and

56.8. Judicial review proceedings under Article 226 cannot be a long-term solution : We have given details of the number of writ petitions pending before the High Court in paras 52 to 54.

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57. The abovereferred problems arising out of the statutory scheme and policy framework should have come under review by the State of Maharashtra. Assessment of the working of the statute to realise if its purpose and objective is achieved or not is the implied duty of the executive government. Reviewing and assessing the implementation of a statute is an integral part of Rule of Law. It is in recognition of this obligation of the executive government that the constitutional courts have directed Governments to carry performance audit of statutes.

…….

64. **A peculiar feature of how our legislative system works is that an overwhelming majority of legislations are introduced and carried through by the Government, with very few private member bills being introduced and debated. In such circumstances, the judicial role does encompass, in this Court's understanding, the power, nay the duty to direct the executive branch to review the working of statutes and audit the statutory impact. It is not possible to exhaustively enlist the circumstances and standards that will trigger such a judicial direction. One can only state that this direction must be predicated on a finding that the statute has through demonstrable judicial data or other cogent material failed to ameliorate the conditions of the beneficiaries. The courts will also do well, to arrive the very least, at a prima facie finding that much statutory schemes and procedures are gridlocked in bureaucratic or judicial quagmires that impede or delay statutory objectives. This facilitative role the judiciary compels audit of the legislation, promote debate and discussion but does not and cannot compel legislative reforms.**

65. In light of the foregoing, considering that the Act is a State legislation, implementation of which lies with the State of Maharashtra, and **till date no comprehensive statutory audit has been undertaken, we request the learned Chief Justice of the Bombay High Court to constitute a Bench** to initiate suo motu proceedings for reviewing the working of the statute to identify the cause of the problems indicated in para 56. The Bench concerned will hear the Government, the statutory authorities, the necessary stakeholders including intended beneficiaries and perhaps take the assistance of some senior members of the Bar specialising in this area as Amici Curiae. We leave it to the High Court to devise such methods as it deems fit and appropriate.

66. Having examined the matter, the Bench may consider directing the Government to constitute a committee for performance audit of the Act. The court's jurisdiction extends only to that extent, and no further. The law-making, including amendments, is the exclusive domain of the legislature."

C. The Present Proceedings:

30. On the aforesaid orders of the Supreme Court, the present Bench was constituted. The first hearing of the present proceedings was held on 16 August 2024, when, after broadly discussing the issues, the Court appointed Mr. Darius Khambata and Mr. Sharan Jagtiani, learned senior advocates, as also Ms. Naira

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Jeejeebhoy, advocate, as the *Amici Curiae*. By a further order dated 20 September 2024, we also appointed a nodal advocate, Mr. Samit Shukla, to coordinate in respect of the pleadings to be filed by all stakeholders. By subsequent orders, all the stakeholders were permitted to file their respective applications/affidavits to place before the Court their perspectives on the issues. Although, the members of this Bench were sitting in different assignments, we heard the respective counsel extensively various dates of the listing of the present proceedings.

D. SUBMISSIONS:-

Submissions on behalf of Simpreet Singh, Hussain Indorewala, Ghar Haqq Sangharsh Samiti, Ms. Medha Patkar and Ms. Amita Bhide, Dean, School of Habitat Studies, Tata Institute of Social Sciences (TISS): (Ms. Gayatri Singh, learned senior counsel)

31. Ms. Gayatri Singh on behalf of these parties has made extensive submissions. She has divided her submissions into **two parts**.

32. Firstly, Ms. Singh would focus on the issue of Identification and Declaration of Slum Lands, Identification of Slum Dwellers, Transit Accommodation for Project Affected Persons (**"PAPs"**) being the core issues as identified by the Supreme Court in **Yash Developers** (supra). Ms. Singh would, in the first part of her submissions, refers to various International Treaties and Conventions. She has also referred to case studies from Countries like South Africa and the United Nations. She has made detailed submissions on 'Right to Life' being a fundamental right guaranteed under Article 21 of the Constitution, as also the positive role of the State to provide affordable housing.

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33. Ms. Singh has also relied on the decision of the Delhi High Court in ***Sudama Singh vs. Government of Delhi***[18], to highlight the deprivation of Human Rights caused by forced eviction, which must be carried out after following due process of law. She would also refer to the decision in ***Ajay Maken vs. Union of India***[19] where the Delhi High Court referring to the decision of Sudama Singh (supra) held that forced eviction of settlement dwellers is illegal if carried out without due compliance with the principles of natural justice to include adequate notice and the duty of the State to ensure adequate rehabilitation plans are in place.

34. Ms. Singh on the second leg of her contentions encompassing some of the core issues as identified by the Supreme Court in **Yash Developers** (supra), has also relied upon the affidavits submitted by the aforementioned slum dwellers, which are placed on record before this Court. Her submissions are summarized as under:-

Issue No.I :- Identification and Declaration of Land as Slum Land.

(a) In this context, she would refer to paragraph 33 of the decision of the Supreme Court in **Yash Developers** (Supra) read with the Slum Act, which envisages different levels of state intervention. This would include declaration of slum areas; protection of occupiers from eviction; improvement of work in slum areas; land acquisition and Slum Redevelopment.

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18 2010 SCC OnLine Del 612

19 2019 SCC OnLine 7618

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(b) Despite efforts, only a fraction of the housing required for the slum population has been constructed with over 12 lakh units needed, but fewer than 3 lakh units constructed in the past 25 years. Despite the initial intention of the SRA to rehabilitate 800,000 families, progress has been slow as data from the SRA indicates that only a fraction of families have been rehabilitated under the scheme, reflecting a significant gap between the need and the actual rehabilitation outcome.

Ms. Singh has made the following suggestions:-

(i) **As stipulated under Section 4 of the Slum Act, all the declared "Slum Areas" must be considered collectively irrespective whether they are or they are not a part of the slum rehabilitation scheme. Such declared 'Slum Areas' must be considered and reserved exclusively for low-income housing.**

(ii) **Non-declaration of slum land blocks improvement of living conditions, as no action can be taken until the redevelopment is approved. In areas like Govandi and Mankhurd, in Mumbai, where the real estate prices are low, it would be necessary to incentivize disinterested developers with increased FSI.**

(iii) **The Slum Act should be implemented to include minimum standards of living conditions through provision of civic amenities i.e. water, electricity, drainage, access to streetlights, sewer lines to be implemented in a time-bound manner, in the interest of the slum dwellers.**

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(iv) The slum dwellers be conferred with option of voluntary in-situ rehabilitation by providing two alternatives i.e. redevelopment through a voluntary organisation, or developer or redevelopment through a public authority i.e. SRA or MHADA.

Issue No.II: Identification of Slum Dwellers:-

Ms. Singh would, in this regard refer to the Afzalpurkar Committee Report, which declared the objective of the Slum Rehabilitation Scheme to usher in better health, a cleaner environment, renewed self-respect for people and last but not the least social justice for the downtrodden. There is no independent body entrusted with the task of monitoring, evaluating or reviewing the slum rehabilitation scheme. Thus, an independent body is quintessential to conduct periodic and relevant studies which can be considered by the SRA for implementation. Ms. Singh would make the following suggestions:-

(A) The procedure for conducting the General Body Meeting for the appointment of developer must strictly follow the State Government Resolution dated 4 July 2019.

(B) The eligibility of slum dwellers is to be determined based on the date of survey. Individuals residing after the year 2000 may be considered for housing under alternate schemes such Pradhan Mantri Awas Yojana or Adarsh Colony Scheme to offer housing either at construction cost or through rental basis.

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(C) Once the scheme is notified, the society is formed and eligibility is determined, the slum dwellers may initiate the process of appointing a developer or undertaking the rehabilitation themselves as per prescribed procedure. The guidelines prescribed under Section 79(A) of the Co-operative Societies Act can be enforced for the redevelopment of slum areas.

(D) The actual FSI plus TDR granted to developer for a slum rehabilitation scheme should be based on some profit capping. FSI of 1.5, for instance, would be adequate for rehabilitation.

(E) For redevelopment schemes, in respect of both alternatives i.e. slum areas or low income housing areas should remain under the ownership of a public authority or a community land reserved, exclusively for the purpose of low income housing. If the slum is on private land the ownership ought to be transferred to such public authority.

(F) As suggested in the Afzalpurkar Committee Report a comprehensive review of the Slum Rehabilitation Scheme should be seriously undertaken after 10 years of its formation, to evaluate both physical as well as socio-economic outcomes of the scheme.

Issue V - Transit Accommodation – Project Affected Persons Scheme (PAPs) read with Issue VIII i.e. Miscellaneous Issues.

Ms. Singh in this regard, would refer to clause 3.11 of Regulation 33 (10)

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of DCPR – 2034 which deals with Project Affected Persons (PAPs) and essentially permits involuntary relocation of protected slum residents. The PAPs fall under Appendix – IV of DCPR 33(10) of 2034. In the above context, after flagging certain issues concerning the scheme relating to PAPs, Ms. Singh has made the following suggestions:-

(A) For slum areas where in-situ rehabilitation cannot be undertaken due to the site being in an uninhabitable areas or being required for development of essential public infrastructure, the State Government ought to take guidance in preparing a resettlement policy based on World Bank's Operational Directives 4.0. This provides guidelines as to how rehabilitation process can be planned and managed.

(B) The resettlement sites are to be located within the same ward or within two kilometres of the slum area being cleared. The relocation sites may not be situated on polluted land or in immediate proximity to pollution sources that threaten the physical and mental health of the inhabitants.

(C) For the existing PAP tenements, all planning/development authorities ought to submit data on the number of tenements built and allotted thus far, vacant tenements in their possession, location of the tenements, condition of the tenements i.e. usable/unusable, usable after repairs, number of tenements required by each authority for various projects, etc. Such information to be made publicly available and accessible on the Corporation's website.

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(D) Until residents are transferred to permanent tenements, the MMRDA/Planning Authority to be held responsible for maintaining the building and for providing necessary facilities. In this regard, the URDPFI guidelines should be followed with regard to open spaces, pre-primary and primary schools, health centres and other amenities. The MCGM to take initiatives to redevelop slums located on its own land and construct PAP tenements on the excess land to address the significant shortfall in the availability of PAP tenements.

(E) MHADA to play a proactive role in the creation of affordable housing on its land which could be used for creation of rehabilitation homes for current dwellers, as also for affordable housing.

Submissions on behalf of Indira Nagar Slum, Prakash Kumbhar and Ekta CHS Association by Mr. Mihir Desai, Senior Advocate:

35. Mr. Desai in the course of his arguments by placing reliance on the affidavits of the above-mentioned parties, followed by detailed written submissions has delved into aspects such as achieving the goal of a Slum-free Mumbai, the dire need to empower the statutory authorities in enforcing the provisions of the Slum Act to meet such objective, issues relating to illegal eviction and demolitions under Sections 33 and 38 of the Slums Act. He has also taken the Court through certain suggestions *inter alia* touching upon independent monitoring and reviewing of the Slum Act, the reason for not having the SRA to be the sole repository/body undertaking redevelopment works.

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36. Mr. Desai, at the threshold, would submit that the core objective behind the Slum Act is the improvement, clearance and redevelopment of slum areas including protection of occupiers from eviction and distress warrants. The 1996 Amendment, based on the Afzalpurkar Committee recommendations introduced Chapter I – A for Slum Rehabilitation Schemes, drifting away from merely declaring slum areas for improvement works so as to help actualize the larger goal of transforming Mumbai into 'Slum Free' city. Mr. Desai would emphasize that lack of affordable housing forces incoming migrant populations into informal settlements causing slums to proliferate faster than their redevelopment. He would then stress upon the legal duty/obligation of the authorities to improve slums. In this context, he has referred to several provisions, *inter alia*, section 61AA, 61D, 63(a), 354B and 354C of the MCGM Act, 1888, read with section 5A of the Slum Act.

37. Mr. Desai would then make the following suggestions in support of his submissions, which are as follows :-

(a) He would urge that the Apex Grievance Redressal Committee (AGRC) and Grievance Redressal Committee (GRC) are composed of serving bureaucrats who have diverse responsibilities however, due to absence of judicial mind these statutory bodies are not able to function and perform in the manner required to subserve the avowed objective of a slum free city. He refers to the decisions of this Court in Jijabhai Dashrath

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Shinde vs. State of Maharashtra[20] and Aslam Hasimali Shaikh vs. State of Maharashtra[21] wherein this Court expressed shock and displeasure that thousands of cases were pending as the AGRC sat only once a week and also condemned the practice of giving slum dwellers only 7 days notice to vacate, as also the alarming situation of its unavailability for urgent matters, forcing citizens to rush to Constitutional Courts. In this regard, he would submit that the composition of AGRC should be revised to include a retired Judicial Officer of the rank of a District Judge. The jurisdiction over Appeals should be vested in a Single, full-time dedicated Appellate Authority to ensure timely justice, which is the need of the hour.

(b) Suggestions were made regarding following mandatory procedural safeguards before initiation of eviction proceedings under Sections 33 and 38 of the Slum Act. This would include a mechanism to ensure strict compliance with the principles of natural justice. This is to ensure that the eviction notices are properly served to the concerned slum dwellers well in advance and critical documents such as notice register, demolition register should be available upon request, to the slum dwellers.

(c) Mr. Desai would urge that the SRA is already overburdened. In such view of the matter, both MHADA and MCGM on whose

20. Writ Petition (L) No. 5671 of 2024
21 Writ Petition No.5600 of 2019

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land rehabilitation schemes are announced should carry out the slum rehabilitation schemes independently.

(d) Mr. Desai would stress on independent monitoring and periodic review of the Slum Act. This should embrace the aspect of reviewing progress and offer recommendations aimed at achieving good quality, affordable and accessible housing to all income groups by a body of independent and interdisciplinary group of individuals tasked with such functions.

(e) Lastly, he would refer to the judgment of this Court in Lokhandwala Infrastructure Pvt. Ltd. vs. State of Maharashtra[22]. This is to emphasize that the Court held that the execution of the Slum Rehabilitation Scheme is inherently laden with a public character. The authorities exercising power under the Slum Act ought to ensure that the scheme is not misused and is utilized to subserve public purposes which is not trammeled by private contractual arrangements/agreements.

Submissions on behalf of Nivara Hakk Suraksha Samiti – Intervenor:- (Mr. Navroz Seervai, Senior Advocate

38. Nivara Hakk Suraksha Samiti" is stated to be a public charitable trust registered under the Bombay Public Trust Act, 1950, which is stated to be an organization founded in 1981that stands for people's right to housing and right to a life and dignity.

22 2011 (3) Mh.L.J. 469

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39. Mr. Seervai has addressed the Court, more particularly, on the specific issue of apportionment of slum land between the "redevelopment area" and the "sale area". In such context, Mr. Seervai has taken us through the various issues related to such apportionment, along with the adverse health, social and environmental impact of the rehab buildings on their occupants. He has also focused on the conditions prevailing in such buildings, poor environmental conditions, poor maintenance, lack of amenities and fire safety as well as the need for open spaces for holistic developments of such rehab buildings, and suggested proposed measures which would assist in mitigating such problems and arriving at a feasible solution.

40. Mr. Seervai would at the threshold submit that 50% of the city's population i.e. about 7 million people live in congested slums which occupy 14% of the total developable area of 268 sq. kilometres. Under the slum rehabilitation schemes led by builders/developers the slum dwellers are rehabilitated in 1/4th to 1/3rd of the land area (constituting 5% of the city's developable land area), thereby increasing the congestion to three-fold. Also, the density of the buildings has serious human and environmental consequences. The balance 3/4th to 2/3rd land area is capitalized for high cost real estate development, turning the scheme to a slum land grab game, the rehabilitation of the slum dwellers being incidental.

41. Mr. Seervai would refer to paragraph 34 of the decision of Supreme Court in ***Yash Developers****(supra)* to submit that the arbitrary trend of land apportionment, in the absence of policy guidelines by the SRA is the root cause of a host of problems. In most instances, the land apportionment for rehab and

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sale is on a 1:4 to 1:3 basis whereas, the FSI share as per the policy is equal i.e. 1:1 in the city area and 1:0.75 in the suburbs for rehab and sale components. As a result, the tenement and population density for rehab and sales is 3:1. Slum on an average have tenement density of 300-350 tenements per hectare (based on population as per 2011 census). This figure is arrived at on the basis of slum occupied land in Mumbai being 3000 hectares and having a population of approximately 50 lakh i.e. 10 lakh slum tenements, thereby making the slums overcrowded and congested.

42. Typically, in SRA projects, the rehab buildings are segregated on 25% to 30% of the total slum land. The remaining 75% to 70% of the slum land is apportioned towards the free sale component. Since the prevailing tenement density in rehab areas is on an average 1200 to 1300 tenements per hectare, the density of population inhabiting such tenements would be 6000 to 6500 persons per hectare. According to Mr. Seervai, such a situation has occurred *inter alia,* because there are no statutory regulations for apportionment of land between rehab areas and the free sale component and there is no prescribed maximum tenement density for rehab buildings in slum projects.

43. Mr. Seervai would next submit that since a much smaller land area than what would ordinarily be required is apportioned to rehab buildings, it would result in the following:-

(a) Rehabilitation buildings are constructed as high rise towers sometimes having 15-20-30 storeys. Because of the large

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number of tenements these buildings have a very high tenement density leading to overcrowding.

(b) There is a mere paltry 6 metre distance prescribed between two rehab buildings. Moreover, even thereafter, developers are given concessions and relaxations in relation to open spaces that are provided for rehab buildings.

(c) Barely any open spaces are provided to rehab buildings which do not comply with the minimum requirements stipulated by the DCPR 2034 for other non-SRA buildings in the city. Hence, the manner in which the rehab buildings are planned, designed and then constructed has caused significant misery forcing the slum dwellers being tightly packed in a virtually uninhabitable manner, in the smallest possible section – in about 25% to 30% of the land area that they occupied prior to the implementation of the project.

44. Mr. Seervai has painstakingly urged the adverse health conditions of the occupants in the rehab buildings; relying on a research paper published online dated 16 March 2020 where scholars have in a systematic manner explained the nexus between the poor planning of the rehab buildings in slum projects and the burden of tuberculosis faced by the occupants of these buildings. The study was undertaken on the basis of a survey conducted in respect of three resettlement colonies i.e. (Lallubhai Compound, Natwar Parekh Compound and PMG Colony, Mumbai). The research paper is entitled "Association between

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architectural parameters and burden of tuberculosis in three resettlement colonies of M-East Ward, Mumbai"[23]. This delves into the issue of land apportionment as it links the various medical and health problems faced by the occupants of the rehab buildings in slum project to lack of natural ventilation and light.

45. Mr. Seervai has elaborated on the precarious condition of women residing in the slums. He would submit that the utter lack of privacy in rehab building puts women at high risk from abuse. Poorly lit and maintained common passages and staircases in rehab buildings, where lifts do not often work, contribute to women being unsafe and insecure, leading to serious privacy issues for the women.

46. Mr. Seervai would then refer to the poor environmental conditions, more particularly, lack of ventilation/air circulation. This contributes to a difficult and unhealthy environment for the occupants of rehabs buildings. He would then refer to the aspect of the poor maintenance of such rehab buildings. In this context, he would illustratively state that a deposit of Rs.20,000/- per family (now raised to Rs.40,000/- per family) made by the developer to the SRA, which is transferred to the rehab society is wholly inadequate for the high maintenance overheads, making it difficult for the occupants, especially the aged and handicapped to reach their homes on upper floors.

47. Mr. Seervai has highlighted that small rehabilitation areas having a high population density, ought to have access to amenities such as markets,

23. Pardeshi, P., Jadhav, B., Singh, R., Kapoor, N., Bardhan, R., Jana, A., … Roy, N. (2020). Association between architectural parameters and burden of tuberculosis in three resettlement colonies of M-East Ward, Mumbai, India. *Cities & Health*, *4*(3), 303–320. https://doi.org/10.1080/

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playgrounds, etc. which are completely missing. In fact, even in instances where there are plans for such amenities, the same are not provided and instead such spaces are infested with hawkers. It is because of the relaxation on requirements of minimum open spaces that the occupants, specially children, who grow up in such rehab buildings are deprived of the basic minimum space for their social development.

48. Mr. Seervai then flags the issue of lack of fire safety, much less no fire safety in the rehab buildings, which are constructed in a manner that makes it impossible for a fire engine to enter in case of a fire. He has relied on some photographs in this regard. This issue, as Mr. Seervai would submit is directly linked with skewed land apportionment which requires urgent attention in the context of a performance audit.

49. Mr. Seervai would submit that the root cause behind the problem of unscientific and inequitable apportionment of slum land between rehab and free sale area is attributable to the ambiguity and lack of clarity in the extant statutory framework. In this regard, he would refer to Regulation 3.12(A) of Regulation 33(10) of DCPR 2034 which prescribes a minimum tenement density of 650 tenements per net hectare. According to Mr. Seervai, there is *ex-facie* discrimination in the Regulations considering that Regulation 30 prescribes a maximum tenement density of 450 per hectare where the FSI is 1. The real outcome of the DCPR 2034 does not stipulate any maximum tenement density, which has led to rehab buildings having unacceptable high tenement density in

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the range of 1200 to 1300 and above. Further, referring to Sub-regulations 3.14 to 3.16 of Regulation 33(10) read with Sub-sections (4) and (5) of Section 15A of the Slum Act. Mr. Seervai would submit that it is the conscious legislative omission to not prescribe any criteria for the basis of apportionment which has led to discriminatory apportionment of slum land to the free sale area and consequent deprivation of the rehab area. Mr. Seervai, in the context of Regulation 33(10), Sub-regulation (6) has highlighted on various relaxations prescribed in relation to construction of buildings and other requirements in the rehab area, which augments the problem in this regard. Thus, he would submit that the net effect of the present statutory regime brings with it unsustainable consequence of there being no FSI limit for rehab components/ buildings which is in the teeth of the provisions of the MRTP Act read with the DCPR 2034, as also Article 21 of the Constitution of India.

50. In the above backdrop, Mr. Seervai has made the following suggestions:-

(a) Firstly, there ought to be a maximum density cap as opposed to a minimum as provided under the extant statutory framework. It is proposed that a maximum density for rehab be fixed at 600 tenements per hectare. This would be consistent with the maximum density of 450 t/ha as specified in the DCPR 2034 for general housing projects.

(b) As regards the inadequate amenities/lack of basic amenities in the rehab areas, it is proposed that the standards specified in the DCPR 2034 and Town Planning Schemes, based on

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development area in population, for any other development be implemented in slum redevelopment projects.

(c) The Slums TDR also ought to be utilized in slum redevelopment contrary to the prevalent practice of utilizing it in any other project. It is proposed that TDR sale and purchase be restricted for use in other slum redevelopment projects to maintain uniform density across various slum pockets that are currently unequal. There is a suggestion that the SRA could operate a Slum TDR Bank for ease of TDR encashment, sale and regulate its pricing.

(d) It is proposed that the practice of concessions and premiums granted under the discretionary power of the CEO- SRA should be immediately stopped, so as to facilitate in alienating the vexed issue of apportionment, as discussed above.

Submissions on behalf of NGO Alliance for Governance and Renewal (NAGAR) in IA(L) 28730/2024 (Ms. Gulnar Mistry, Advocate)

51. The Applicant is a society registered under the Societies Registration Act, 1860 and a public charitable trust under the Maharashtra Public Trust Act, 1950, established in the year 2000. It is stated to be working in the areas of preservation of public open spaces, solid waste management, improvement in air quality, preservation of water bodies, beaches, mangroves, built and natural heritage features, efficient road space management, and water conservation.

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52. Ms. Gulnar Mistry, on behalf of these Applicants, would rely on I. A. No. 2409 of 2025 to support the applicant's case. She has made suggestions pertaining to the first of the seven issues flagged by the Supreme Court in paragraph 34 of its judgment in **Yash Developers** *(Supra).* The first issue brought forth by the Supreme Court is *"i) Identification and declaration of land as a slum. This problem involves an examination of the role of authorities in giving such recognition, insidious intervention of builders in the said process casts doubts on the independence and integrity in the decision-making process;".*

53. Ms. Mistry, addressing the Court on issues pertaining to identification of slums on open spaces would submit that slums have encroached upon open spaces and, under the existing policy, *in situ* rehabilitation of such slums areas is being undertaken. The current process for identifying slums does not distinguish between slums on regular land and those encroaching on reserved public open spaces. Ms. Mistry further submits that this failure exacerbates overcrowding at the local level and in the city at large, because areas that are designated for recreational use are diverted and no longer remain available, including to slum dwellers who live in cramped quarters and for whom this civic amenity is even more important.

54. Ms. Mistry would urge that open space reservations are seen as essential public amenities, and can neither be encroached upon nor diverted for other uses. She places reliance on the law laid down by the Supreme Court in ***Olga Tellis v.***

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Bombay Municipal Corporation[24], (para 57 page 589), *MCGM V. Hiraman Deorukhar & Ors.*[25] (para 7 to 9, 12 at page 419- 420) to affirm the same.

55. Ms. Mistry further places reliance on the observations of the Supreme Court in *Lal Bahadur Vs. State of Uttar Pradesh & Ors*[26], (para's 14-16 at pages 415 to 417, para's 24, 26 at page 427) wherein, it was held that altering the use of green belts for residential use violates the public trust doctrine and *Bangalore Medical Trust Vs. B.S. Mudappa & Ors.*[27] (para 24 page 75) which held that open spaces for recreation are amenities of great public concern and vital interest to be preserved in a development scheme.

56. Ms. Mistry would further draw the Court's attention to this Court's decision in *NAGAR Vs. State of Maharashtra*[28], which observes that the Court is deeply aware of the serious shortage of open spaces in the city of Mumbai, as the data presented, sourced from official surveys and civic reports clearly demonstrates. Ms. Mistry further states that the per capita open space available in Mumbai is much lower than international and even national planning standards, and highlights that 35% open space is a minimum requirement, not an average or flexible figure and observes that if any project manages to retain more than 35% through better planning, it should be appreciated and encouraged.

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24. (1985)3 SCC 545
25. (2019)14 SCC 411
26. (2018) 15 SCC 407
27. 1991 4 SCC 54
28 (Writ Petition No. 1152 of 2002)

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57. Ms. Mistry further highlights that through this Court's decision in **NAGAR V. State of Maharashtra** *(supra)* that the State Government has been directed to undertake a "comprehensive policy review" of Regulation 17 (3)(D)(2) within a period of 24 months, including an evaluation of whether the 35:65 ratio serves the goal of sustainable development. Additionally, it has been directed that if necessary, the state shall frame revised regulations ensuring a higher retention of open space, enhanced civic safeguards and exclusion of fresh encroachments from rehabilitation benefits.

58. In the above backdrop, Ms. Mistry has made the following two-fold suggestions:-

(a) Allowing the amalgamation of slum rehab projects on open lands with other slum schemes in the same ward which are not on open spaces, and allow the utilization of FSI/ TDR from the area of open space designation with the view of incentivizing the clearing and maintenance of open spaces by all;

(b) To treat public open spaces on par with vital public projects under clauses 1.3- 1.4 and 3.11 of DCR 33 (10).

59. Ms. Mistry further underscores that SRA has suggested that it is considering a "cluster redevelopment approach" to slums as measure to free up amenity space by shifting a slum on one plot onto another plot and undertaking a joint/cluster redevelopment. This would further safeguard the amount of open or designated reservations to which such a cluster redevelopment scheme applied

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would be retained as is and not be reduced and the open space should be preserved and retained in a continuous manner, so as to allow for larger public open spaces.

60. Ms. Mistry further highlights that slum rehabilitation projects have been implemented without reducing open spaces, she refers to a time when this Court had stayed a 1992 notification that allowed 67% of land for rehabilitation and sale while retaining 33% for open spaces. Around 45 Acres of open spaces were preserved by adjusting adjoining lands. However, the measure was limited to contiguous plots, restricting its wider application.

61. In the above backdrop, Ms. Mistry would suggest on prioritizing public spaces on par with public projects and providing incentives for clearing and maintaining open spaces via different methods like amalgamation of slum rehab projects on open lands with other slum schemes.

Submissions on behalf of Mr. Vinay Hule and Mr. Ramesh Makhija in IA(L)/28730 of 2024 (Mr. Akash Rebello, Advocate)

62. Mr. Akash Rebello, learned counsel for the above Applicant/Intervenor in the course of his submissions has placed reliance on the affidavit filed by these applicants which states that the Applicants i.e. Mr. Hule is a member of one Om Siddhivinayak (SRA) CHS and is a slum dweller, whereas the other Applicant Mr. Makhija, is the owner of a factory premises which has been designated as a slum area.

63. Mr. Rebello on behalf of these Applicants has advanced contentions along with suggestions on four main issues viz. :-

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(i) Identification of slum dwellers;
(ii) Selection of developers;
(iii) Provisions relating to transit rent;
iv) Effectiveness of statutory remedies;

64. On the first and second issues, Mr. Rebello would submit that they are closely intertwined and interconnected. The identification of slum dwellers and the appointment of the developer is the first step in the rehabilitation process. Accordingly, if the slum dwellers who are beneficiaries of the scheme are not properly identified, it would lead to various challenges and protracted litigation which would in turn affect the entire slum rehabilitation scheme. In this context, Mr. Rebello would refer to the judgment of this Court in ***Awdesh Tiwari and Ors. vs. Chief Executive Officer, SRA and Ors***.[29]. This is to submit that this Court in the said decision observed that the unregulated process particularly when there are instances of overlapping slum schemes, which are rival societies, leads to unhealthy competition by rival developers, which often results in delay to the scheme.

65. Mr. Rebello would submit that there are circulars of 15 February 2008, 02 February 2015 and 23 April 2024 which apply after the appointment of a developer and at the stage of acceptance of the slum rehabilitation scheme. However, for the first stage of appointment of a developer by the slum dwellers there is no circular or process to regulate the same.

66. Addressing the above issues, Mr. Rebello would submit that the SRA ought to devise a mechanism to regulate the process and get involved much prior

29 2006(4) Mh.L.J. 282

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to the submission of the proposal by the developer so as to mitigate the challenges referred to above.

67. Mr. Rebello addressing the Court on the provisions relating to transit rent would submit that the circulars of the SRA have, to a large extent, dealt with the issue of non-payment of transit rent. However, experience reveals that SRA has passed orders refusing to compute such transit rent, which have more often than not been set aside by the High Court. This leads to an anomalous situation where, even at the interim stage, there is a long drawn process to determine what the transit rent is. Often it involves appeals and compels the slum dwellers to run from pillar to post to get such rent even after vacating their premises.

68. It is urged in such context, that while the slum dweller and the developer may be free to agree upon a higher rent, at the very least, the basic rent must be ascertained/fixed. This would avoid a situation where disputes arise as to the quantum of such rent payable to a slum dweller which is prolonged and not decided over long period of time. However, if a base rent is fixed, at least that amount can be paid to the slum dweller pending final adjudication.

69. On the issue of effectiveness of statutory remedies, Mr. Rebello has referred to the decision of this Court in **Tulsiwadi Navnirman CHS vs. State of Maharashtra**[30]. The Court in the said case observed that in a situation where disputes of a technical nature could be sorted out and disposed of before the

30 2007 SCC OnLine Bom 1000

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Committee, which would lessen the burden on the High Courts in exercise of their jurisdiction. In this regard, Mr. Rebello would strenuously urge that it is the absence of a legal mind on the part of the AGRC that leads to remand of its orders, ultimately causing inordinate delay.

70. Mr. Rebello would in the above backdrop suggest that to ensure transparency in the process, it would be just and expedient that the AGRC is chaired by a retired High Court Judge. This would reduce the burden of this Court in deciding matters and examining the issue of application of mind by the AGRC, when petitions are filed in this Court, challenging such decisions.

Submissions on behalf of Late Mr. Shirish Patel, Urban Planner: (Mr. Shiraz Rustomjee , Senior Advocate)

71. Mr. Shiraz Rustomjee learned Senior Counsel, has represented this Applicant who passed away during the pendency of this proceeding on 20 December, 2024. He is now represented by Justice Gautam Patel (Retd.). His son and one of the legal heir have sought to intervene on his behalf, vide IA dated 28 January 2025. The late applicant was a public-spirited person, having a distinguished and exemplary record of working in the areas of urban planning, public spaces, and housing including having personally designed the Kemp's Corner Flyover in Mumbai in 1965. The applicant is desirous of placing before this Court his views and suggestions to assist in its endeavour to review the working and effectiveness of the Slum Act.

72. Mr. Rustomjee, at the very outset, would refer to the decision of the

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Supreme Court in **Yash Developers** (supra) dated 30 July 2024 and more particularly paragraphs 32 to 42 thereof, wherein the Supreme Court has made observations regarding the issues in the working of the Slum Act and the need for "reviewing" the Slum Act to identify the cause of the problems indicated *inter alia* in paragraph 34. The said para reads thus :-

> "34. **The exasperation of the High Court about working of the Act is understandable. The present appeal is a classic example of why the High Court's concern is genuine**. It has been noticed that the statutory scheme is problematic with respect to: i) Identification and declaration of land as a slum. This problem involves an examination of the role of authorities in giving such recognition, insidious intervention of builders in the said process cast doubts on the independence and integrity in the decision-making process; ii) Identification of slum dwellers: This involves a complicated process of proof of such a status, the attendant problem of groupism, giving rise to competing claims inevitably leading to litigation; iii) Selection of a developer: The Act leaves this decision to the cooperative society of slum dwellers and the majority decision is manipulated by competing and rival developers; iv) Apportionment of the slum land between redevelopment area and sale area: This is yet another area where court has witnessed developers seeking to increase the proportion of the sale area, leading to contestation; v) Obligation to provide transit accommodation for the slum dwellers pending redevelopment: Invariably, we see instances where the developer does not provide transit accommodation within time or provides an inadequate alternative in the form of a quantified amount towards rent, On the other hand, there are instances where some slum dwellers refuse to vacate the premises on the ground that the transit accommodation is either inconvenient or the amount offered is insufficient; vi) There are also issues of lack of independence and objectivity in the functioning of statutory authorities: This is a matter of serious concern. Courts have witnesses that the authorities have no independence and, their tenure is also short. Additionally, the functioning of these statutory authorities gives an indication that there could be a regulatory capture; vii) Another concern which exists is about the effectiveness of statutory remedies: Statutory remedies are ineffective and at the same time, lacking in accountability and vii) Judicial review proceedings under Art. 226 cannot be a long-term solution: We have given details of the number of writ petitions pending before the High Court in Para 33."

73. In the above backdrop, Mr. Rustomjee has made the following suggestions:-

(i) The primary step should be to disregard the notion that a poor family should be provided with "free housing" as it lives in an urban area, highlighting that everyone should pay for their own house, construction

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cost. Hence, subsidies, housing loans may be made available for the same. Furthermore, for families who cannot afford EMIs for the construction cost, housing should be provided on "leave and licence" basis by the SRA.

(ii) Mr. Rustomjee would refer to the Afzulpurkar Report, wherein he would stress upon the importance of availability of finance at economical rates which would include viable schemes for facilitating alternate housing in favour of notified slum dwellers. He would in this context highlight the importance of this constitutional imperative, which is imminent so as to address the issues under the Slum Act, as far as rehabilitation of the slum dwellers is concerned.

(iii) The ownership of land must be separated from ownership of the structure standing on it. On selling his premises, the occupant may recover his cost of construction and the same should be done at the prevailing market rates, less any appropriate amount for the deterioration of the construction. The occupant should not be allowed to claim any appreciation of the land value, emphasizing that owner of the structure should be permitted to sell it only to owner of the land, as the appreciation belongs to the owner of the land. This should be done at prevailing construction cost less adjustment for deterioration.

(iv) The government should part ways with the idea of monetizing the value of the land that has been kept aside for the sale component. Instead, such land should be used to provide the rehab building with proper light and ventilation, and amenities such as health-care clinics, public toilets,

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pocket parks, etc., that are accessible within a walking distance.

(v) Where the land is owned by the government, such ownership be transferred to a Community Land Reserve (CLR) which is similar to Forest Reserves and Wildlife Reserves, where land is reserved for specific purpose. The said CLRs will be required to keep their land for exclusive use for low-income housing, barring sale of such land and any charge for its use must not exceed maintenance costs. The CLRs should be non-profit companies under the Section 8 of the Companies Act, 2013 and the hallmark of these should be that of achieving the utmost transparency, with the specified style of management, as set out in their Memoranda and Articles of Association.

(vi) The National Building Code, 2016, (NBC 2016) (Part 3, Section C-2.4.2) specifies 500 dwelling units per hectare (du/ha) as the maximum density on a plot for 15 sq. metre apartments in four storey walk-ups. The NBC 2016 does not specify which amenities have to be within a walking distance of the 500 du/ha as an essential aspect of the housing construction.

(vii) The essential amenities to be provided on site must be first defined for the size of the population to be rehabilitated on that site and under no account should the same be compromised. Adequate natural light and ventilation, particularly to the lower floors, and the space between buildings for facades that have windows shall not be compromised. In this regard, NBC 2016 (Part 3, Section 8) which provides for clear guidelines,

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must be adhered to.

(viii) If the conditions spelt out above in regard to adequate social amenities, density, light and ventilation are not feasible, then in such case some families shall be relocated to adjacent vacant land or in neighboring redevelopment sites that are less over-crowded.

74. Mr. Rustomjee underscores the importance of quality construction lasting more than 100 years, stating that regardless of the hurdles/ obstacles and the pressures, acceptable living conditions should not be compromised at any cost. In this context, he would lay emphasis on the fundamental rights guaranteed under Article 21 of the Constitution.

Submissions on behalf of Nagardas Dharsi Bhuta Charities (land owner) (Mr. Rajiv Kumar, Senior Advocate)

75. Mr. Rajiv Kumar, learned Senior Counsel has represented the applicants. Reliance is placed on the Affidavit of one Mr. Kamlesh Jaysukhlal Bhuta.

76. At the outset, Mr. Rajiv Kumar would state that the Applicant is a trust having ownership of land which is notified as a slum area. The applicant-Trust had filed proposals/ schemes to develop and rehabilitate its land hence this applicant is aware of the functions and challenges that crop up in relation to redevelopment of slums.

77. Mr. Rajiv Kumar, at the outset would referring to the judgment dated 20th September 2024, of the Supreme Court in **Yash Developers** *(Supra)* and highlight the issues framed therein, as also to the decision(s) of a co-ordinate

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bench of this court in ***Indian Cork Mills (supra)*** and ***Bishop John Rodrigues vs. State of Maharashtra (supra)*** to submit that the Court has recognised a preferential right is conferred on the owner to undertake redevelopment under the provisions of Section 3B (4)(e) and Section 13(1) and (2) of the Slum Act. His contentions is to the effect that while recognising such right it must be given realistic effect to enable a landowner to develop its own land in a *bona fide* manner, in interest of all stakeholders.

78. Mr. Rajiv Kumar, outlines the process of redevelopment to be followed by a landowner upon the land being declared as a slum rehabilitation area under Section 3(C)(1) of the Slums Act. His concern is that after spending atleast 6 to 12 months and incurring large scale expenses, the landowner is expected to get consent of 51% of slum dwellers. In such context, it is submitted that, the landowner is exposed to unforeseen obstacles such as: slum dwellers begin to assert rights superior to those of the actual landowners by forming proposed co-operative housing societies and appointing their own developers to seek approval for redevelopment under the Slum Rehabilitation Scheme. These societies are often influenced or supported by undisclosed third parties who later emerge as developers. As a result, genuine landowners frequently find themselves entangled in frivolous and vexatious litigation initiated by slum dwellers or such hidden agencies. Consequently, despite having invested substantial time and money, landowners may ultimately find their proposals rejected at the Letter of Intent (LOI) stage.

79. Mr. Rajiv Kumar further highlights that in the situations as described

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above, there have been large scale encroachments on private lands, followed by long drawn litigation, which ultimately leads to the failure of Slum Rehabilitation Schemes. As per the Slum Rehabilitation Authority's (SRA) slum cluster list of 2015, up to 35,67,12,299 sq. ft. of land in Mumbai is slum encroached as per reports available on the internet, 15,76,87,200 sq. ft. of this is private land.

80. Mr. Rajiv Kumar expresses concern with regard to circular No. 144 dated 31st August 2013, Circular No. 144A dated 9th November 2015, and Section 13(1) of the Slum Act. He submits that it is the consent of slum dwellers which acts as a stumbling block to several SRA projects.

81. Mr. Kumar would urge that upon the SRA declaring a particular property as a slum under Section 3 (C)(1), the landowner is given an opportunity to justify why the said land ought not to be acquired. In responding to any acquisition notice, the landowner may show his inclination to rehabilitate and redevelop the said property. However, the land owner is not kept informed about any decision that the SRA and/or the State Government takes on such hearing/cause shown by the owners of the land. It is only when the notice is published that the landowner becomes aware that the land has been acquired. There is an absence of transparency in the manner in which the acquisition process is undertaken, which leads to further litigation and delays the process of redevelopment of slums properties.

82. Mr. Rajiv Kumar underscores that the Slum Act is a beneficial legislation with provisions meant to ameliorate the poor condition of slum dwellers, who

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should not be jettisoned only on technical grounds or procedural infirmities. These should not be given undue importance once the Statutory Authorities have performed their task. He further submits that the Slum Act is used as a land grabbing tool by third party developers at the behest of societies, which ought to be stopped/ nipped in the bud.

Submissions on behalf of Skycon Infrastructure, Private Landowner (Mr. Kirti Munshi, Senior Advocate)

83. Mr. Kirti Munshi, learned Senior Counsel, has appeared on behalf of Skycon Infrastructure, private landowner. He has placed reliance on the contentions of the applicant as raised in the affidavit dated 18 September 2024.

84. Mr. Munshi at the outset submits the issue of the compensation received by private slum owners for their private land being acquired is inexplicably low. He has drawn the Court's attention to the statutory provisions and the First Schedule of the Slum Act that governs the procedure for the computation of compensation payable to private land owners. It is submitted that there is no uniformity between the compensation which is payable under various statues wherein the private landowner is deprived of his land for a public purpose and the compensation payable under the Slum Act is not commensurate with the other acts, but in fact substantially lower than even the compensation which is awarded under other acts to private landowners for being deprived of their private land.

85. To highlight such aspects, Mr. Munshi has presented before the court computation of compensation under other acts, such as Right to Fair

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compensation Act, 2013, National Highways Act, 1956, Maharashtra Regional Towns Planning Act, 1966, Development Control Promotion Regulation (DCPR) 2034 Mumbai, Unified Development Control Promotion Regulation (UDCPR), 2020, Maharashtra Industrial Development Corporation, 1961, Maharashtra Housing Area Development Act, 1976. Mr. Munshi then would emphasize that the new legislations are either guided by the principles of Right to Fair Compensation Act, 2013, which contemplates market value or comparable sales instances or the new DCPR 2034 and the UDPCR 2020 which contemplate compensating the landowner in the form of incentives which if monetized would be of greater value than even what would be awarded to a landowner under the Right to Fair Compensation Act, 2013.

86. Mr. Munshi places a hypothetical illustration of a comparative calculation of compensation on the basis of various statutory provisions noted above in respect of the above landowner's plot of land, in order to illustratively demonstrate the disparity in compensation which would have been awarded in respect of his plot under the various acts mentioned above. After perusing the above comparative chart, the compensation awarded under the Slum Act is found to be abysmally lower than the compensation awarded to the landowner for the same plot if the land was acquired under other acts.

87. Thus, Mr. Munshi submits that not awarding the private landowner a realistic compensation, would amount to penalizing the private landowners for the inability and lack of will on the part of the state machinery to protect private land from being unauthorizedly encroached or the inability to remove such

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encroachments.

88. Mr. Munshi has referred to the Circular No. 167 dated 30th December, 2015, which mandates that once certified Annexure – II is received and 70% consent of eligible slum dwellers is verified and granted to the developer/society, the scheme shall not be stopped due to pending litigation over title or development rights unless specific injunction is issued by a competent court of law. It is submitted that individuals approach Civil Courts or other authorities to obtain interim or ad-interim orders staying Slum Rehabilitation Scheme (SRS) implementation and certain plaints ingeniously drafted to set up a case of fraud of some nature to invoke the assistance of these for a to delay the implementation of the SRS.

89. Mr. Munshi would urge on the issue of interference by the Civil Courts despite statutory provisions creating a bar/ouster of jurisdiction under Section 42 of the Slum Act as well the Section 149 of the MRTP Act, where the Civil Courts are debarred from exercising jurisdiction in respect of matters mentioned therein. It is observed that despite the bar/ouster of jurisdiction of the Civil Courts in respect of a certain category of disputes, there is interference by the Civil Courts in various slum redevelopment projects which has resulted in inordinate delays being caused for the implementation of these projects.

90. In the aforesaid context, reliance is placed on a decision of this Court in **M/S Patel Construction v. Himasnhu Dwarkadas Ruparelia and others**[31] (First

31. 2025 SCC OnLine Bom 2175

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Appeal No. 27 of 2014 by a unreported judgment dated 7th May 2025), wherein a private landowner's 2005 Slum Rehabilitation Scheme was stalled for more than seventeen years by Civil Court's injunction. Despite no fraud, the status quo orders persisted, thereby highlighting the plight of the private landowners which is occasioned by due to a lackadaisical adherence to the mandate of Section 42 of the Slum Act and Section 149 of MRTP Act.

91. Mr. Munshi, further submits that there is now judicial recognition of the preferential right which a landowner has to redevelop his own property in the scheme of the Slum Act. He submits that this position has been given due recognition in the judgment of a Division Bench of this Court in the case of **Indian Cork Mills** (supra) and subsequently **Bishop John Rodriques v. State of Maharashtra** (Supra). Both the said decisions have been now upheld by the Supreme Court vide judgments dated 22 August 2025, respectively.

92. Mr. Munshi urges that in order to avoid any conflict in the smooth functioning of the redevelopment in respect of private lands, it is necessary to clarify that since the preferential right of the private landowner to redevelop his own property has legal sanction, that, *ispo facto*, would entail curtailing of rights which the society of slum dwellers or occupants presently exercise.

93. Further, Mr. Munshi places reliance on the Application of late Intervenor/Applicant, Mr. Shirish Patel, to endorses twofold reform:

(i) To separate ownership of land from structure, limiting occupants to possession rights only and the owner should be permitted to sell the

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structure only to the owner of the land at prevailing construction cost less adjustment for deterioration.

(ii) On selling one's premises, the occupant may recover only his cost of construction at prevailing market rates less any appropriate amount for deterioration of the construction.

94. In order to curb the above issues, Mr. Munshi makes the following two fold suggestion:

(i) There should be clear and explicit, succinct guidelines either to be notified by the SRA/ State or the Court in terms of a judicial pronouncement, in order to act as an impediment to the smooth implementation of Slum Rehab Schemes and should be followed by all Courts and fora in the State of Maharashtra.

(ii) In a genuine case, if the Civil court or any fora under the Slum Act does grant an injunction order, then there must be a provision whereby there is finality accorded to that interim order within a specified stipulated period which cannot be extended, so that any such actions which are filed merely with a view to procrastinate do not achieve the objective of delaying the implementation of Slum Rehab Schemes for unduly long.

(iii) That the body/society of slum dwellers/occupants should not have a say in the appointment of a developer, if the private landowner is desirous of undertaking the redevelopment of his own land by himself, either, directly or indirectly.

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Submissions on behalf of NAREDCO West Foundation (Dr. Milind Sathe)

95. Dr. Milind Sathe, learned Senior Counsel and Mr. Khandeparkar, learned Counsel have advanced submissions on behalf of NAREDCO West Foundation, which is stated to be an apex national body for the real estate industry.

96. The learned counsel have, at the outset, highlighted the problems and issues faced by the developers who are forced to pay retrospective rents to newly eligible occupants, adversely impacting the cash flow of the project. It is because of the delay in deciding the eligibility that becomes a ground for opposing eviction by the slum dwellers, thereby causing delay in implementation of the project. In this context, they would urge that such problems are further aggravated at the level of the AGRC which is not able to hold regular sittings causing significant delays. There are no timelines for certifying the eligibility of slum dwellers or deciding appeals, which adds to the delay. **The learned counsel have relied on the affidavit filed by NAREDCO West Foundation and have made the following suggestions:-**

(i) The SRA should entrust development projects to the developers depending upon their past experience as well as success in implementation of projects of similar size. Some basic criteria ought to be formulated to bid for slum scheme depending upon the size of the slum, built up area, project cost and density in terms of clause 3.1.2 (a) of the DCPR.

(ii) Only such developers ought to be selected to be permitted who have

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completed such projects of similar scale and minimum net worth of the developer also to be duly considered.

(iii) There should be no further extension in the cut-off for the eligibility of slum dwellers over and above that which is statutorily provided.

(iv) SRA ought to adopt a digitized platform like that of MCGM for sanctioning proposals for redevelopment including establishing procedure for a single window clearance.

(v) With regard to the vexed issue of apportionment of slum land between rehabilitation area and sale area, there is no statutory formula or percentage stipulated for bifurcation of land and area between the rehab and sale area under the Slum Act. Any fixed ratio of apportionment will create inflexibility in making the slum rehabilitation scheme further unviable. To overcome this and the situations where the developer has to provide buildable reservations and shifting of reservations under Regulation 17(3)(d) of the DCPR 2034 read with regulation 9 of the DCPR, freedom of planning is the need of the hour to ensure smooth implementation of slum projects.

(vi) Notice under Section 13(1) of the Slum Act must be issued within a prescribed timeline for the landowners to act within such time frame, failing which acquisition proceedings can be initiated against the landowners who is causing hurdles against implementation of the slum schemes.

(vii) Certification of Annexure - II ought to be completed by the

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competent authority in a time-bound manner.

(viii) Appeals under Section 35 of the Slum Act should be decided in a time-bound manner. SRA must endeavour to implement eviction/demolition within three months from passing an order under Section 33 and 38 of the Slum Act.

(i) A comprehensive policy may be formulated between the Central Government and the State Government in areas declared as slums or slum rehabilitation area, along with SOPs in the context of grant of consent by the State Government and its instrumentalities under clause 2.8 of Regulation 33(10) of DCPR 2034. This provides for NOC for building permission within 60 days after intimation of such approval to the project is communicated by the instrumentality of the State Government such as MCGM or MHADA.

Submissions on behalf of CREDAI-MCHI (Mr. Shardul Singh, Advocate)

97. Mr. Shardul Singh appearing for CREDAI–MCHI (Confederation of Real Estate Developers Association of India – Mumbai) has addressed the Court on the following aspects by placing reliance on an affidavit dated 30 September 2024 submitted by CREDAI-MCHI and made certain suggestions which are summarized as under:-

Mr. Singh would submit that eligibility disputes are one of the largest causes of delay. This is because Annexure – II is issued after prolonged scrutiny, is amended repeatedly, and is often misused. Ghost entries and multiple entitlements persist due to absence of cross verification. In this regard Mr. Singh

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would urge that Annexure – II should be issued only by SRA Deputy Collectors using the GIS/biometric Auto Annexure System integrated with Aadhar, Voter Roll, and Utility Records. Such draft Annexure – II should be published online within a fixed objection window (45 days + limited condonation), after which eligibility must be frozen. No resurveys should be permitted.

98. Mr. Singh has urged that despite Regulation 33(10) prescribing 60 days for finalization of Annexure-II, this often exceeds 6 months to years, with repeated amendments. **Mr. Singh would suggest that Annexure-II must exclusively rest with the SRA and Auto Annexure database should be relied upon for seamless issuance.**

99. Mr. Singh has flagged the issue of a developer securing a General Body Resolution without financial or technical scrutiny. He would submit that speculative players procure consents, trade in FSI, and abandon project midway. **In this context, he would suggest that SRA to prescribe basic eligibility criteria for developers undertaking slum schemes. Such criteria should consider past experience of the developers, while prescribing the eligibility rules.**

100. Mr. Singh would then submit that rival societies on the same parcel/CTS plot having splinter consent, triggering disputes or overlapping proposals and since there are more than one developers/proposal, the fall-out is resultant disputes which stalls the project. **In this regard, Mr. Singh would suggest that a Managing Committee should be appointed by a majority of not less than 51% of the total population of the slum pocket, in the General Body Meeting, to be**

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overseen by the SRA authority. SRA should blacklist such society members who are not elected in the General Body meeting and no further complaints/allegations should be entertained from such society.

101. Mr. Singh would then refer to the issue of consent often being uninformed, coerced or disputed. Slum dwellers face language and literacy barriers. A slum scheme can be initiated by minimum 51% consent, to mean 49% would dissent. He would in this regard suggest that the developers in the presence of the SRA officers should give complete disclosure to ensure informed consent, which should be AV recorded e-consent, with insertion of biometric verification and cool-off period. No individual complaints should be entertained unless it is signed/supported by 1/3rd slum dwellers out of the entire slum dwellers, in the slum scheme.

102. Mr. Singh would submit that appeal remains pending for years, as the AGRC, GRC sit fortnightly, face quorum issues and are manned by overburdened bureaucrats. In this regard, he would reiterate suggestions made earlier of having a full-time tribunal with judicial members and a dedicated registry. Mere filing of appeal ought not to operate as an automatic stay unless a reasoned order is passed with conditions.

103. Mr. Singh would then flag the issue of a small minority often stalling projects despite 95% consent and rent being offered. Eviction under Section 33 read with 38 of the Slum Act are extremely slow. To alleviate such problem Mr. Singh would suggest that errant slum dwellers should face deferral of Permanent Alternate Accommodation Agreements and the SRA should be held responsible

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for undertaking the eviction.

104. Mr. Singh would then submit that developers are compelled to pay outstanding water and electricity dues of slum dwellers before granting permission to the developers, which runs contrary to clause 1.13 of DCPR in Regulation 33(10). Such dues according to Mr. Singh ought to be treated as arrears recoverable from beneficiaries, post rehabilitation. Auto Annexure Data could be used for cross-verification.

105. Mr. Singh has drawn this Court's attention to relocation of religious structures within schemes which presently requires approvals from different department like Home, Urban Development, Police Department, causing 6 to 12 period delay. **To mitigate this Mr. Singh has suggested that lawful religious structures within slum rehabilitation schemes ought to be treated like rehabilitation structures. There could be a single window clearance by the SRA instead of going to multiple authorities to obviate the delays.**

106. Mr. Singh has flagged another issue of rehabilitation building not being properly managed, funds not used judiciously an infrastructure charges diverted. **In this regard Mr. Singh has proposed certain suggestions as below ;-**

a) **A portion of infrastructure charges must be ring-fenced for rehabilitation upkeep and the corpus funds, must be audited periodically.**

b) **Once the slum dwellers are handed over possession of the respective units the onus of maintenance of the building**

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should be with the slum society itself.

c) The infrastructure charges collected under Regulation 33(10)-clause 9.2 from the developers should be utilized solely for maintenance of rehab buildings, specifically the charges collected on the rehab built up area for maintaining such rehab buildings.

d) To address the issue of re-encroachment, it is suggested that re-encroachers must be disqualified from being a part of any scheme or future eligibility in any other scheme, for which the State Government and SRA should frame stringent guidelines.

e) Environmental Clearance (EC) approvals are cumbersome which delay the projects. It is suggested to establish a single window cell with SOPs, stringent timelines and fast-track clearances for slum schemes.

Submissions on behalf of Lakadawala Developers Pvt. Ltd. in IA/3024 of 2024 (Mr. Pravin Samdani, Senior Advocate)

107. Mr. Pravin Samdani, learned Senior Counsel has appeared for the above Applicant/Intervenor and advanced submissions on their behalf. Firstly, as background of the applicant, Mr. Samdani would state that the Applicant is a company registered under the Companies Act engaged in the development of real estate projects in Mumbai, having vast experience in rehabilitation schemes. Mr. Samdani would refer to and rely on the Interim Application which is on record, in the course of his submissions.

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108. The Applicant is undertaking a slum rehabilitation scheme on lands situate in Goregaon (West) and Malad (West), Mumbai the details of which are set out in IA, admeasuring 4417.96 sq. meters (approx.). In this regard, SRA issued a Letter of Intent dated 11 April 2022 in favour of the Applicant to carry out a slum rehabilitation scheme on the said land. It is during the course of the said slum rehabilitation scheme that the SRA issued Circular No. 210 dated 1 August 2023. Mr. Samdani, placing reliance on the said circular would contend that vide the said circular, the housing department Government of Maharashtra has *inter alia* directed the SRA to ensure that the developers shall deposit two years' advance rent and post-dated cheques for rent of one year. Also, that the Executive Engineer/SRA shall process the proposal of the developer for issuance of LOI only upon the deposit of advance rent by the developer. The Commencement Certificate for sale the component shall be issued in proportion to the amount deposited by the developer.

109. Mr. Samdani would submit that the circular is to be applied retrospectively by the SRA. It imposes unreasonable conditions on the developers which would render most of the slums schemes unviable, resulting in horizontal and vertical expansion of slums. Mr. Samdani, in this context, would submit that unless the slum is vacated within a specific and definite time period from the date of deposit, the project will become unviable.

110. Mr. Samdani would refer to the judgment of the Supreme Court in ***Yash Developers (supra),*** more particularly, paragraph 56(v) of the said decision. He would contend that the first portion of the said paragraph which deals with the

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obligation to provide transit accommodation to slum dwellers pending redevelopment is something that has been covered by the said Circular No.210 (supra). However, the second portion of paragraph 56(v) of the said decision which deals with the refusal of the slum dwellers to vacate has not been addressed.

111. In the above backdrop, Mr. Samdani makes the following suggestions:-

(a) There ought to be some definite timeline/time period within which the slum is vacated from the date of deposit of rent as prescribed in Circular No.210 dated 1 August 2023, failing which the project will be rendered unviable. This is also necessary to facilitate swift implementation of the slum rehabilitation scheme.

(b) When the developer/s comply with the provisions and mandate of the said circular dated 1 August 2023 and deposit of rent in compliance thereof, there ought to be some safeguards in place so that the developer/s are reasonably secured. Further, the SRA ought to provide some incentives in terms of issuing the Commencement Certificate and/or other permissions qua the sale component in slum rehab schemes, in a timely manner. Revised Letters of Intent may be issued whereby these conditions or safeguards are included so as to balance and protect the interest of developers, as well.

(c) The SRA ought to devise a mechanism to deal with the issue of reluctance on part of the slum dwellers to vacate the premises on

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the ground that the transit accommodation is either inconvenient or the amount offered is insufficient. This is to facilitate speedy and effective clearance of a site where such a scheme is undertaken and to ensure due compliance with the second part of paragraph 56(v) of the decision in *Yash Developers (supra)*. In this regard, the plea of inheritable tenancy which is often raised, ought to be done away with, to make sure that the slum rehab schemes are implemented in an effective and timely manner and taken to its logical conclusion.

Submissions on behalf of Shree Azad SRA CHS. Ltd. (Mr. Altaf Khan, Advocate:

112. Mr. Altaf Khan, learned counsel has made submissions on behalf of Shree Azad SRA CHS Ltd. (Society). **Mr. Khan submits that there are several glaring deficiencies in the existing framework of SRA, which have led to persistent delays, disputes, and hardships to the stakeholders, including slum dwellers and developers.**

113. The Court's attention is drawn to various issues faced by the slum dwellers and developers which, according to the applicant, are not being addressed under the existing mechanism of the SRA. It is submitted that the scheme does not prescribe the uniform method for fixation of transit rent to be paid to slum dwellers, leaving the matter entirely to the developers resulting in disputes, and multiplicity of litigation before SRA and this court.

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114. It is next submitted that there are drawbacks in quality control and accountability mechanisms, post-construction of rehabilitation buildings. Poor construction quality, absence of technical audits, and lack of maintenance oversight threaten to convert vertical slums into future hazards.

115. Also the existing process of formation of societies and appointment of developers is largely developer-driven. The initial Special General Body Meetings (SGBMs) are frequently organized and influenced by developers themselves, often without the supervision of SRA officers allowing manipulation of records and consent forms.

116. On the issue regarding the qualification of the developers, it is submitted that, developers with inadequate financial capacity or experience are often appointed for large scale projects without genuine verification of their solvency or expertise.

117. Mr. Khan further emphasizes on the issue of protection and rehabilitation of slum dwellers. He further submits that, the actual occupier of dwelling structures, in existence on or prior to 1 January 1995 were protected and were entitled for rehabilitation/relocation. Mr. Khan has placed reliance on decision of this Court in the case of **Janhit Manch Vs. State of Maharashtra** (supra) in which it was held that the cut of date 01.01.1995 shall not be extended further, although this remained only on paper.

118. According to Mr. Khan the grievance redressal mechanism under the SRA Act including the Apex Grievance Redressal Committee (AGRC) and Grievance

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Redressal Committee (GRC) is currently ineffective. The Committees assemble on an average 12 to 13 times a year resulting in huge backlog of cases and urgent matters are not listed promptly, resulting in pendency and multiplicity of litigation.

119. It is next submitted that the construction and planning of rehab buildings and that rehab buildings are not constructed in time, for instance in some cases the delay exceeds 20 years. Slum Act and DC Regulation are silent on the equal distribution of the plot between the rehab component and the sale component, which confers an advantage to the developer for using major/larger portion of the land for his sale component, which is not in the larger public interest.

120. It is submitted that, under the original DCR, 1991 there was no provision for parking with respect to Rehab Buildings in the Reg – 33(10). The Slum Rehabilitation Scheme having residential entitlement of carpet area 20.90 sq. metre, was introduced in DCR, 1991 vide amendment dated 12/08/2009 wherein one parking space for every eight tenements having carpet area up to 36 sq. metre each was provided. The Court's attention is drawn to SRA Circular no. 104 (no. SRA/ENG/7313/Gen) dated 10/11/2009 to submit that, the said circular prescribing parking guidelines lacks the backing of law and runs contrary to the intent of the delegated legislation. Mr. Khan further submits that, the existing model of parking provision under DCPR, 2034 has widened the socio-economic gap and has failed to meet future needs of slum dwellers who are potential vehicle owners.

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121. In the above backdrop, Mr. Khan has made the following suggestions:-

a. A Special General Body Meeting for the implementation of the slum rehabilitation scheme should be called by the slum dwellers for the appointment of the developer. In the event that SRA fails to appoint a developer by the tender process, the society on basis of the Special General Body Meeting should immediately communicate to the SRA. The SRA shall then scrutinize the tenders and call for a Special General Body Meeting in presence of an authorized officer who shall explain the S.R. Scheme to the slum dwellers and further appoint a developer on basis of majority decision as, per extant laws.

b. To fix the minimum transit rent based on location and other factors in consultation with stakeholders, minimum 5%, with a year wise increase to be implemented strictly and such condition should be recorded in LOI. The registered Tri-partite Agreement between the Developer, the Society and the Slum Dwellers should be executed at the time of appointment of developer.

c. At least four dedicated SRA officers should handle rent and lottery issues to ensure timely disposal of complaints. Any complaint/grievance of rent should be decided on priority and if any default is found on part of Developer it should be followed with 'Stop Work Notice'. Interest of 12% per annum should be made payable on delayed payment of transit rent and that

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expeditious adjudication of applications of transit rent within a time bound manner, preferably within 30 days.

d. A squad team consisting of three officers must be formed for quality assessment of construction. Such team must also grant quality certificates. Upon confirmation of low quality construction, the developers / builders must be held accountable and compensation must be paid to either to SRA for Rehab Building or to Society.

e. The eligibility criteria of the developer shall be only those who have had a minimum experience in the field of redevelopment for 3 years having a financial capacity that is verified by the SRA. Developers should be prohibited from entering into any Joint Venture without the prior approval of the SRA and the society.

f. Retired High Court judges should chair the AGRC and retired District Court judges the GRC. Regular sittings and hybrid hearings should be ensured. A digital dashboard should be created to display the pending and disposed of cases.

g. SRA shall ensure an equal 50% - 50% distribution of land between the rehab and sale components.

h. Developer shall deposit a corpus fund, share fungible FSI benefits equally between rehab and sale portions, and execute leases or deemed conveyances before issuance of occupation certificates.

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i. **Before eviction, SRA shall ensure payment of 22 months of advance transit rent in addition to 11 months post-dated cheques to those eligible and 11 months rent to non-eligible slum dwellers.**

Submissions of learned *amici* :-

122. Mr. Khambata, along with Mr. Sharan Jagtiani, learned senior counsel, and Ms. Naira Jeejeebhoy, learned counsel appointed as amici, have taken strenuous efforts to present the issues before the Court in an appropriate perspective, in the light of what has been held by the Supreme Court in **Yash Developers** (supra).

123. At the outset, Mr. Khambata, relying on the decision of the Supreme Court in **Yash Developers** (supra) as also the decisions in **Galaxy Enterprises** (supra), **Indian Cork Mills Pvt. Ltd.** (supra), **Bishop John Rodrigues** (supra), **Saldanha Real Estate Pvt. Ltd.** (supra), **Tarabai Nagar Cooperative Housing Society** (supra), **State of Maharashtra vs. Shri Mahadev Pandharinath Dhole** (supra) and **Jilani Building at Bhiwandi vs. Bhiwandi Nizampur Municipal Corporation and Ors.**(supra), submitted that in all these decisions, the Court has expressed multitudes of concerns in regard to the implementation of the Slums Act and the lacunaes, which are required to be redressed by the State Government. Mr. Khambata's concern would be although the Slums Act was envisaged as legislation providing ad-hoc solutions to ad-hoc problems, as observed in **State of Maharashtra vs. Shri Mahadev Pandharinath Dhole** (supra), however, the dream as envisaged in the said decision as far remained to be fulfilled. It is submitted that there are several issues concerning the classification

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of slums and the effective and efficient management of their rehabilitation. Although the expansion of large slum areas could be restricted, they have now reached alarming proportions. Mr. Khambata has placed on record suggestions in a tabular form identifying specific issues, the causes of such problems, the relevant statutory framework/guidelines or decisions, the proposed measure/ solution and whether such solution would require amendment by legislature. In such event, the question arises as to what proposals may be made to address legislative flaws and what the views of the Slum Rehabilitation Authority (SRA) are on these issues. At the outset, it may be noted that the following specific issues/problems have been identified:-

i. Suggestions on identification and declaration of land as slum;

ii. suggestions for identification of slum dwellers;

iii. Suggestion for selection of developers;

iv. Suggestions for apportionment of slum land between redevelopment and sale area;

v. Suggestions regarding obligation to provide transit accommodation to the Slum dwellers pending redevelopment.

vi. Suggestions regarding lack of independence and objectivity in functioning of statutory authorities;

vii. Suggestions regarding effectiveness of statutory remedies;

viii. Suggestions pertaining to miscellaneous issues."

124. In relation to the aforesaid issues, Mr. Khambata has also submitted, in tabular form, the causes of the problems, the relevant existing statutory sections, regulations, rules, circulars, guidelines and/or judgments, proposed measure/

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solution, whether proposed measure/solution requires amendment of law by legislature, proposal for legislative reforms and the comments on views and suggestions of the SRA. We must appreciate that the information, as placed on record in tabular form ought not to be disturbed in any manner, as it gives a complete view of such issues and the valuable suggestions made on the proposed course of action. We are, therefore, of the opinion that the suggestions should form part of this judgment.

Suggestions:

125. The following are the **suggestions** as made by the learned *amici*:-

"I. DECLARATION OF SLUMS AND RIGHTS OF LANDOWNERS

A. Balancing of Rights of owner with that of reasonable public housing for slum dwellers:

1. **No ownership rights to slum dwellers**: Suggestion to form a 'community land reserve' may be adopted[32] with a few modifications as suggested herein. Ownership rights need not be transferred to slum dwellers. Allotment can be permanent but should not translate to ownership. The DCPR provisions conferring ownership rights on hutment dwellers in rehab tenements should be amended.

2. **Housing arrangements**: Identified slum dwellers should be given housing in rehab tenements for the duration while working in the City either free (for protected occupants) or on rent (for other cases). Any non

32 Pg. 393, Annexure A, Item 8, Affidavit on behalf of Shirish Bhailal Patel, Compilation of Affidavits -1.

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protected occupants should be made to contribute financially for alternate accommodation as envisaged by the Maharashtra Slum Act.

3. **Succession rights**: After death of original occupants, heirs should be entitled to continue subject to payment of rent at similar rates as non-protected occupants.

4. **Reversion mechanism**: If slum dwellers or their heirs wish to give up the tenement, it should be transferred back to the community land reserve.

5. **Implementation**: These provisions should be implemented by way of Rules under Section 46 of the Maharashtra Slum Act and through amendments to DCPR.

B. Private Lands - Protecting Landowner Rights[33]:

To make Section 13(1) of the Maharashtra Slum Act meaningful, the following suggestions are made:

6. **Specific notice to private landowner**: The current scheme of publishing a stakeholder-wide notice must be modified to include specific notice furnished to the private land owner[34]. The SRA policy of pasting a notice on site, publishing a notice in newspapers as per Circular No.198 dated 26.04.2021 (Table I, Pg. 17, Sr. 13) ought to also continue.

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33 Despite judicial recognition of landowners' preferential rights to redevelop slum-declared land, there are repeated instances of improper acquisition without adequate notice under Section 13 of the Maharashtra Slums Act. See section 3B(4)(c) and (e) and section 13(1) falling under Chapter I-A of the Maharashtra Slums Act; See also Bishop John Rodrigues v State of Maharashtra, Writ Petition No. 1212 of 2022, the Court (G.S. Kulkarni & Jitendra Jain, JJ.) which cites Gulabdas Shah v. State of Maharashtra, 2011 (1) Mh. L. J, and Indian Cork Mills Pvt. Ltd v The State Of Maharashtra & Ors.,2018 SCC OnLine Bom 1214. (Paras 84, 85, 97 and 130)

34 See recommendations of Nagardas Dharsi Bhuta Charities, Table VIII, Pg. 137, Sr. 7

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7. **No Clubbing of Notices**: There should not be any clubbing of the notice under Section 13 with that under Section 14 of the Maharashtra Slums Act or any deemed notice. In case Section 14 process has begun, it must be stayed until proper notice is given under Section 13 of the Maharashtra Slum Act.[35]

8. **Standardized notice format:** A standardized format of notice must be prescribed by the SRA and published on its website, including the date by which the owner's proposal should be submitted.

9. **Commencement of 120-day period:** The stipulated 120 day period must begin from proof of service given to the owner.

10. **Title disputes:** In case of title disputes, if the SRA cannot determine the real owner, the owner whose name is stated on the property card must be served with notice.

11. **Priority of owner's rights**: In case of competing claims, owner's right must be given priority over the right of occupants, unless the owner does not have any bona fide interest in redeveloping the land.[36]

12. **Time-Bound Implementation:** In the event that the owner, who has exercised his preferential right, does not adhere to the prescribed time frame, Section 13(2) should automatically follow, followed by the procedure prescribed under Sections 14 to 17 for acquisition of the land for a public purpose from the owner.

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35 See Suggestions by Bright Ability and Awareness Foundation (T-1), page 109 of Consolidated Table

36 Therefore, the Court ought to consider the conduct of the landowner to assess the same. [see Deena Pramod Baldota v State Of Maharashtra, 2022 SCC OnLine Bom 5102].

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C. Government-Owned Lands:

In light of the public trust doctrine enumerating that Government lands are public resources held in trust by the State, it is suggested that:

13. **Accountability and prevention of further encroachment**: A list should be prepared marking free/open land as on date and State authorities should be held accountable for ensuring no encroachment takes place.

14. **No veto power for occupants:** In case of redevelopment on public land, no veto power should be given to occupants.

15. **Transparent tendering**: When private-public partnerships are resorted to, the government must adopt a fully transparent process by publishing public tenders.

16. **Community housing stock**: The State should benefit from the development potential of the land by having part of the redevelopment potential used to create community housing stock, over and above the rehabilitation of occupants.

17. **Best deal for State**: The tender should be awarded to a Developer who is not only technically and commercially sound but is able to provide the best deal for the State.

18. **Community land reserve on public land:** The DCPR may be amended to provide that even public land should be used for creation of a community land reserve instead of leasing the land to the Society of slum dwellers and reversion of tenements to the pool of public housing.

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II. DELAYS AND AUTOMATIC TERMINATION PROVISIONS[37]

19. **Mandatory Time-Bound Completion**: All letters of intent and agreements must mandate timely stage-wise completion of slum rehabilitation schemes.

20. **Automatic Application of Section 13(2)**: In the event of default in adhering to stipulated timelines (unless extended by court order), the SRA should take action under Section 13(2) as an absolute rule to substitute the developer. To leave room for some unforeseen circumstances, it would be open to the developer to approach the CEO, SRA to extend the relevant milestone after passing a reasoned order. However, such an application should only be entertained in case the CEO, SRA is approached prior to the deadline of the milestone.

III. DENSITY AND APPORTIONMENT[38]

21. **Maximum Tenement Density**[39]: DCPR 33(10) should be suitably amended to insert a maximum tenement density in keeping with sustainable development principles and to ensure rehabilitated slum dwellers are provided access to basic amenities. The regulation should

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37 Despite statutory provisions and judicial precedents, delays in implementation of slum rehabilitation schemes by owners and developers are not being adequately addressed. Of 578 applications received under Section 13(2), 372 remain pending. See Susme Builders Pvt Ltd v Chief Executive Officer, Slum Rehabilitation Authority (2018) 2 SCC 230, para 45; Galaxy Enterprises v State of Maharashtra – 2019 SCC Online Bom 897, para 60

38 This Hon'ble Court in State of Maharashtra v Shri Mahadeo Padnharinath Dhole AIR 1980 Bom 348, para 22 has held that the objective of the Maharashtra Slum Act "22...also is to provide to the slum dwellers at large certain basic necessities such as water, sanitary arrangements, light etc" and rehabilitation in proper buildings. However, the current scheme for redevelopment of slum areas does not achieve the avowed objective of rehabilitation of slum dwellers in proper buildings. Notably, the proviso to Regulation 33(10)(6.15) and Regulation 33(10)(6.16) and (6.17) enables relaxations in building requirements that may be provided by the CEO, SRA. The lack of apportionment of FSI between the rehabilitation component and the free sale component, has enabled disproportionate apportionment of slum land to the free sale area and consequent deprivation to the rehabilitation component.

39 The current framework does not achieve the objective of providing slum dwellers with proper buildings and basic necessities. Regulation 33(10)(3.12A) only prescribes a minimum tenement density without prescribing a maximum density, leading to heavy congestion. Rehabilitation tenements are often squeezed into 25 to 35 percent of slum land in buildings hosting up to 6,000 to 6,500 tenements per hectare.

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prescribe a maximum density in line with DCPR 30[B] and the National Building Code of India, 2016 rather than prescribing a minimum tenement density.

22. Building Safety Standards and Fire Protection: Slum rehabilitation schemes must enforce the safety measures prescribed by the National Building Code (NBC)[40] The CEO SRA cannot be permitted to grant relaxations in building norms that compromise the safety of the rehab components[41]. Accordingly, it is suggested that:

a. No relaxations to the minimum distance of 6m between two rehab buildings under Regulation 33(10)(6.8) should be permitted

b. Fire protection requirements as per DCPR 47 should be mandatory.

c. Lighting and ventilation requirements provided under Regulation 40 of the DCPR should be made mandatory to slum rehabilitation projects.

d. The open space requirement under Regulation 33(10) should be at par with the requirements under the DCPR as applicable to general building constructions[42]

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40 The Supreme Court in Avinash Mehrotra v Union of India (2009) 6 SCC 398 applied Article 21 and 21A to direct State Governments to ensure that all government and private schools were constructed according to the safety norms incorporated in the NBC. This constitutional logic must extend with equal force to slum rehabilitation housing.

41 The Supreme Court in Municipal Corporation of Greater Mumbai & Ors v Kohinoor CTNL Infrastructure Company Pvt Ltd (2014) 4 SCC 538, has expressly found that relaxations in building permissions cannot be permitted at the cost of providing the required public amenities and at the cost of safety to be afforded to inhabitants of Mumbai.

42 The DCPR demands open space requirements of 15 to 25 percent depending upon the plot area. However, Regulation 33(10)(6) reduces this requirement to 8 percent without any justification, which may be further relaxed by the CEO SRA under Regulation 33(10)(6.17).

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e. No relaxation should be granted where it adversely affects safety, fire safety and public safety, and planning norms established for safety cannot be compromised.

f. Any relaxations as to building constructions should be made only as per Clause 6.17 of DCPR 33(10), which are provided only to make the scheme feasible with reasons to be recorded in writing.

23. Apportionment of Land between Rehab and Sale Components: Specific norms for apportionment of FSI between the rehab component and sale component ought to be provided for[43]:

a. Either a fixed ratio be provided for under the DCPR or the factors relevant for determination of this ratio be defined in either the Maharashtra Slum Act or DCPR 33(10).

b. The apportionment between rehab component and free sale component ought to be made in such a way that the rehab component complies with suggestions as to maximum density and non-waiver of basic amenities, fire safety etc.

24. Developer's Entitlement – Conditional on Compliance: Under the Maharashtra Slum Act read with Regulation 33(10) of the DCPR, the developers' entitlement to FSI and the free sale component should be expressly recognized as conditional upon fulfillment of obligations to eligible slum dwellers. A failure to fulfill those obligations should be treated as a failure of consideration. Developers are a means to serve

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43 See The Aflzarpurkar Report contained recommendations as to appointment at para 15.9 (pg.44 of the Report)

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public welfare purposes, not ends in themselves.

25. Adequate checks and balances to protect bona fide third party purchasers: Developers should be granted right to free sale area proportionate to the stage of completion of the project and should not be permitted to sell any part of the free sale area in excess thereof.

III. IDENTIFICATION OF SLUM DWELLERS

26. Cut-Off Date Freeze[44]:

a. The cut-off date cannot be extended by way of a circular and should not be further extended.

b. Instead of extending the cut-off date, a procedure providing for rehabilitation of non-protected occupants at nominal cost should be implemented.

27. Time-Bound & Streamlined Process for Annexure II[45]:

a. **Time bound preparation**: The procedure for preparation of Auto Annexure II should be initiated and completed at the stage of Section 3(C)(1) itself by the SRA/Deputy Collector to enable simultaneous preparation at the time of declaration of land as slum area.

b. **Time bound Appeals**: A time period of 30 days should be prescribed for filing Appeals and these should be disposed of within 60

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44 The cut off for giving status of protected occupier for a dwelling structure who will eventually be eligible for rehabilitation was initially 1985 and was subsequently revised to 01.01.1995 and thereafter to 01.01.2000 and recently to 01.01.2011 by the State government under the sub-regulation VIII (3.12) (C) of Regulation 33(10) of DCPR 2034. The Afzulpulkar Committee Report categorically emphasized the need for freezing the cut-off date without any extension (Chapter 2, Pg. 14-15 of Afzulpulkar Committee Report).

45 **SRA vide its Circular No.217 dated 12th February 2024 directed all** Competent Authorities to generate Annexure II only by using Auto Annexure II application and further Deputy Collector / SRA / Engineering Department of SRA shall not accept and act upon any manually prepared Annexure II. However, the aforesaid Circular however does not provide for completion of issuance of Auto Annexure II in a time bound period.

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days.

c. **Mobile linking**: Mobile numbers of slum dwellers should be linked to send draft and final Annexure II to them so they are aware of their eligibility status.

d. **No undecided eligibility**: In Annexure II, eligibility should not be kept undecided (sometimes kept pending for decades).

e. **Spouse and occupants**: Names of spouse (husband and wife) and all actual occupants should be mentioned in Annexure II.

f. **Subsequent purchasers**: Subsequent purchasers after issuance of Annexure II who have actually occupied/resided in slum structure should be considered for eligibility (as per G.R. dated 16.05.2015 and 16.05.2018).

g. **Professional management agency**: SRA can appoint a professional agency to guide slum dwellers, and fees for the same can be partly recovered as scrutiny charges for eligibility.

28. **Satellite survey of Slum Plots**: should be done periodic, to prevent further encroachment. Subsequent purchaser after issuance of Ann – II who have actually 'occupied / resided' in slum structure, should be considered for eligibility.

29. **Definition of "Dwelling Structure"**: The State government should clarify under the definition of "dwelling structure" u/s. 3X(a) of the Slum Act whether structures above ground floors are "dwelling structures" or not.

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30. Centralized Master List: Information should not only be centralized but consolidated into a Master List of beneficiaries that is publicly available like the Electoral Roll to help weed out duplications in different slum pockets and eliminate bogus slum dwellers from taking benefit under multiple schemes.

31. Biometrics and Identity Card:

a. Biometric survey for identification of number of exact slum dwellers of particular plot and integration of the same with central data base is required irrespective of the Authority preparing Annexure II. Disciplinary action should be initiated against the officer not following the law

b. After issuance of letter of Allotment to the slum dwellers, SRA should also issue 'Identity Card', to the allottee having photograph and biometric data of Husband, Wife and other family members of allottee.

IV. SELECTION OF DEVELOPERS

32. Constituting a Pre-Identified Panel of Developers: The Bombay High Court suggested replacing the existing scheme with a system of having a pre-identified panel of bona fide and reputed developers[46], which the SRA is implementing and should be followed so that there is a pre-identified list of developers from which slum dwellers can choose a developer. This would also streamline debarring/blacklisting defaulting developers.

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46 Galaxy Enterprises v. State of Maharashtra & Ors. (2019)5 Bom CR 43, paras 3-5,65

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33. **Selection on objective criteria**: The final decision on the Developer should not be left with the CHS. There should be objective criteria on the basis of which the Developer should be appointed by the SRA after taking into consideration the views of the CHS and keeping in mind the public trust doctrine. The selection of Developer should be completed in a time bound manner.

34. **SRA-Facilitated Tendering:** The SRA has indicated it will formulate and publish guidelines on floating tenders and criteria to consider in selection of a developer.[47]

35. **Financial and Technical Scrutiny of Developers**[48]:

a. SRA has already suggested and implemented measures in this regard. A graded scheme should be implemented requiring greater experience, minimum net-worth and cash in hand as the RERA carpet area of the project increases. All empanelled developers should be in the real estate development business for more than 5 years

b. The SRA's empanelment form (which requires details of past projects, awards, financial statements, etc.) should be incorporated with existing Annexure III requirements under Circulars Nos. 144, 144A and the Ease of Doing Business Manual.

36. **Notification Before Third-Party Financial Bailouts**: SRA should introduce a new policy/circular whereby no developer should be permitted

47 Item 19, Point 2, Suggestions of the SRA, Pg. 72, Table summarising suggestions of the SRA

48 In Yash Developers v. Harihar Krupa CHS 2022 SCC OnLine Bom 3712 it was suggested that the SRA rigorously scrutinizes the selection of a developer on its financial and technical capacities through a scientific mechanism, in order to identify a bonafide developer with fullest abilities.

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to enter into an agreement with a third-party or joint-venture without notifying the SRA.

37. Stalled Projects - Auction Process: The SRA has indicated it is in the process of formulating a scheme for auctioning stalled projects through a ward-wise, e-tendering process."

Submissions on behalf of SRA (Dr. Birendra Saraf, Advocate General)

126. Dr. Saraf, learned Advocate General has made extensive submissions as also has filed written submissions in two parts, namely, Part 1 and Part 2. The submissions of Dr. Saraf on the distinct topics are as follows:-

(i) **Background in relation to the Slum Act –** In setting out the factors leading to the enactment of the legislation, it is submitted that the creation of slums in urban areas was due to numerous factors. The rapid expansion of industries led to a significant migration from rural areas to cities, which was also due to rural regions being unable to meet the livelihood needs of people who primarily depended on agriculture and related activities. Such migration caused overcrowding in urban areas and a shortage of housing, which, in turn, led to the development of large slum areas, particularly in Greater Mumbai and other urban regions in Maharashtra. The housing requirements in the urban areas could not meet the rapid development in urban activities. Such large scale and rapid immigration also led to encroachment of open public lands. Also, the apathy of the private landlords to prevent encroachment and to ensure the appropriate use of land led to

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slums mushrooming on private lands. The proliferation of slums also raised serious concerns in regard to the safety and health not only of the slum dwellers, but also of the society at large. Although multiple municipal laws were in operation, there was no uniformity in the provisions of these enactments coupled with insufficiency of the provisions to improve the situation in regard to slums. It is for such reasons that the legislature thought it appropriate to enact a special law to deal with the improvement, clearance and development of slum areas leading to enactment of the Slum Act in the year 1971. The object, *inter alia,* being to make better provision for the improvement and clearance of slum areas in the State and for redevelopment as also for the protection of occupiers from eviction and distress warrants. The Slum Act was brought into force on 11 August 1971. The legislation casts various duties on the authorities. The Slum Act was substantially amended in the year 1996-97 and 2001 *inter alia* to introduce Chapter I-A and amendments.

(ii) **Legislative history of the Slum Act –** Under this heading, the learned Advocate General has referred to the Central Act, namely, the Slum Areas (Improvement and Clearance) Act, 1956. The backdrop for enactment of the said legislation was considered and elucidated by the Supreme Court in the case of **Sanyukta Sangharash Samiti vs. State of Maharashtra** (supra), wherein the Supreme Court made the following observations:

> 4. Very little attention was paid to the slum dwellers in their initial period during the late 19% century and early 20% century, during colonial Rule. After the 1896 bubonic plague the Government recognized the need for improvement in the housing and sanitary conditions, in the city. This

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> resulted in the formation of Bombay Improvement Trust (for short **'BIT'**) in 1898, and later Bombay Development Department (for short **'BDD'**) in the year 1920. BDD in particular, *inter alia*, had a mandate to construct low-cost houses for the workers who were manning the factories and the mills in the city; and for the workers in ports and railway station as well. All the same, not much was done by these bodies as far as improvement of living conditions of the workers in these areas or for providing them with a decent housing or sanitary conditions.
>
> 5. With independence, initially the approach of the authorities towards slums was also largely focused on clearing the slum areas, rather than improving their conditions. The Slum Areas (Improvement and Clearance) Act, 1956 was enacted by the Parliament for declaring the areas as slum area, and clearing it. The competent authority could declare an area as a slum area and would thereafter pass demolition or clearance orders. There was no purposeful welfare, socially sensitive, provision in the Act for redevelopment of the area after its clearance and this was left to the satisfaction of the competent authority, which may redevelop an area, subject to his or her satisfaction (see Section 11 of the Act)."

127. In line with the Central legislation, it is contended that the said Slum Act was conceived by promulgation of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Bill (Bill No. XXV of 1970), so as to formulate a comprehensive legislation to deal with slums in Maharashtra. After the suggestions of the report being invited from the Committee constituted to make submissions on the bill, the Legislature enacted the Slums Act in the year 1971 contemplating appointment of Competent authority for supervising the enforcement of the Slum Act, rehabilitation and improvement works. At the relevant time, there was no provision for a rehabilitation scheme as also the Development Control Regulation 1967 did not have any provision regarding implementation of a slum rehabilitation scheme. On such backdrop, to establish a separate Board for carrying out the works of improvement in the areas of the slums, the Maharashtra Slum Improvement Board Act, 1973 was enacted. The joint application of the Slum Act and the Maharashtra Slum Improvement Board

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Act, 1973 had fell for consideration of the Division Bench of this Court in **State of Maharashtra vs. Mahadeo Pandharinath Dhole** (supra).

128. It is submitted that despite the said enactments, it was observed that the slum proliferation was not curbed effectively and there was no comprehensive Slum Rehabilitation Scheme setting out the parameters of works of improvement or redevelopment. It is stated that the initial focus of the Government in enactment of the Slum Act was on identifying and declaring slum areas of Maharashtra, for which extensive surveys to map out slum locations and assess the living conditions within these areas were undertaken. Thus, the first phase of implementation of the Slum Act involved the preparation and execution of improvement schemes aimed at providing basic amenities and improving the overall living conditions in slum areas. The progress was, however, felt relatively slow due to several challenges, including bureaucratic inefficiencies, limited financial resources, and the "sheer scale" of the problem. The improvement of slum areas, despite efforts, proved to be a daunting task. The conditions of the slums were so dire that improvement alone was not sufficient, necessitating the clearance and redevelopment of entire slum clusters. These challenges faced during this phase underscored the need for a more robust and coordinated approach to slum redevelopment. In such context, significant observations were made by this Court in **Janhit Manch v. State of Maharashtra**[49], which read thus:-

> "71. **Slums and Slum TDR and 1977 Slum Rehabilitation Amendment:**
>
> i. Slums have been a problem in Mumbai occasioned by the State's inability protect public lands from encroachment. This administrative failure is

49 2006 SCC OnLine Bom 1145

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> occasioned by Vote Bank Politics. Consequently, the same has reached an alarming situation and is posing a great threat to Mumbai's Planning and its already inadequate infrastructure. Living conditions in the slums are unhygienic and pose a great threat to health, though now, facilities like tap water, garbage clearance, electricity and toilets have been provided. According to the estimates, the number of persons who live in slums ranges between 50% to 60% of the city's population. A number of schemes have been devised like slum improvement, slum upgradation under the World Bank Project and also redevelopment schemes by granting FSI upto 2.5. The last scheme has given scope for societies of slum dwellers and developers to develop slums which are commercially viable. However, despite all these measures adopted the problem remains unresolved. The problem required a solution which would run across the board. It appears that it is in this background that the Government of Maharashtra, proposed a new slum policy."
>
> (emphasis supplied)

129. A reference is made to a study group which was formed to consider changes to be introduced to improve the operation of the Slum Act, under the guidance of Mr. Dinesh Afzalpurkar, as formed by the State Government. The study group made recommendations for the changes to be introduced in the Slum Act for its better implementation. In pursuance thereto, Chapter I-A was introduced under the Slum Act, which formed the Slum Rehabilitation Authority ('**SRA**') as the sole dedicated authority for implementation of slum schemes in Mumbai. Simultaneously, with the enactment of Chapter I-A, various other amendments were incorporated granting primacy to the SRA, including by bringing about amendment to the Maharashtra Regional and Town Planning Act, 1966 (**MRTP Act**) [Section 2(19), Section 37(IB), Section 152], Mumbai Municipal Corporation Act (**MMC Act**) [Section 144(B), Section 354(AAA)].

130. Between 17th April, 1996 and 25th April, 1996 the Slum Rehabilitation Authority invited objections and suggestions to the general slum rehabilitation scheme for Greater Mumbai. By a notification issued by the SRA under Section

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37(1-B) of the M.R.T.P. Act, objections and suggestions were invited by the S.R.A. to the proposed modifications in the D.C. Regulations including the insertion of a proposed Appendix VII-B. After a further round of inviting objections and suggestions in August 1996, the Development Control Regulation 33(10) was amended with effect from 15 October 1997. Thereafter, on 19 April 1998 the General Slum Rehabilitation Scheme for Greater Mumbai was approved by the SRA and notified.

131. Chapter I-A substantially changed the manner of redevelopment of slums in Mumbai. The significant impact of introduction of Chapter I-A was considered by this Court in **Pooja Enterprises v. C.E.O., S.R.A**[50] and in **Tulsiwadi Navnirman Coop. Housing Society Ltd. v. State of Maharashtra** (supra).

132. In his written submissions, learned Advocate General has set out *in extenso* the scheme of the Slum Act as contained in various chapters. An emphasis is laid on Chapter I-A and Chapter I-B, in the context of establishment of the Slum Rehabilitation Authority as also identification of slum rehabilitation areas, identification of slum dwellers, selection of developers and declaration of general slum scheme as per Section 3-B of the Slum Act. It is stated that on 19 April 1998, a General Slum Scheme in accordance with Chapter I-B of the Slum Act was published by the SRA setting out the parameters of implementation of the Slum Rehabilitation Scheme. A reference is made to Development Control Regulations 1991 and the present Development Control and Promotion Regulations 2034. It is stated that prior to the notification of the general slum

50 (2000) 3 Mah L] 147

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scheme, the State of Maharashtra on 25 March 1991 notified the Development Control Regulation 1991 (**DCR 1991**) in which Regulation 33(10) of the DCR 1991 read with Appendix IV set out the rights of the hutment dwellers in slum schemes, the requirement of building permissions and relaxations which may be granted for planning purposes, computation of rehabilitation and free-sale component, provision for transit camps, constructions of commercial tenements, etc.

133. It is stated that in the year 2018, the Development Control and Promotion Regulations 2034 (**DCPR 2034**) were notified. Regulation 33(10) governs the Slum Schemes in the same manner as it was positioned under the DCR 1991. However, Regulation 33(10) of the DCPR 2034 provides for higher FSI as also, as per the new Regulations, the slum rehabilitation tenements were to be constructed for all the slum dwellers irrespective of their eligibility, and in the event the slum tenements were in excess of eligibility, the same would be surrendered to the authority as PAP tenements to be utilized as Project Affected Persons tenements. It is stated that apart from regulations concerning slum rehabilitation schemes, the DCPR 2034 also contemplated generation of a pool of housing. Regulation 33(10) (3.11) is stated to be a scheme which provides for rehabilitation of slum dwellers who are situated on lands which are required for implementing vital public projects. It is stated that as per this scheme, developers offer lands owned by them where the slum dwellers encroaching the vital public project land would be housed. The developer conveys such land to the SRA and receives Floor Space Index (FSI) and Transferable Development Rights (TDR)

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for the same. Further the Regulation 33(10) (3.12)(c) contemplates creation of PAPs in each slum scheme. Regulation 33(11) of the DCPR 2034 stipulates creation of Permanent Transit Camps for the SRA. Under the said Regulation, the scheme is approved specifically for constructing transit camps which may be used by the SRA for housing slum dwellers from other schemes. These are the provisions enacted for creating a pool of housing which may facilitate the vacating of public and private lands. A reference is also made to Regulations 33(20)(A), (B) and (C) which provide for construction of low cost housing for low income and middle income groups enabling construction of subsidized housing.

134. Considering the difficulties which were faced in implementing the Scheme as per Regulation 33(10) of the DCR 1991, extensive amendments were made to Regulation 33(10) so as to bring about a sea change by making the following provisions:

> "(a) Requirement of construction of rehabilitation tenements by accounting for eligible and ineligible slum dwellers: The DCPR 2034 now makes provisions for construction of tenements for all slum dwellers, eligible and ineligible. It makes provisions for the ineligible slum dwellers who may become eligible subsequently due to verification/scrutiny. In the earlier regime, the hutments were accounted for the eligible slum dwellers only. In the event of increase of eligible slum dwellers, the parameters of slum scheme would be required to be changed. This amendment is a step forward in expedition in schemes.

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(b) The incentives such as FSI and built up area were increased. Higher FSI not only ensured that more hutments could be constructed in the rehabilitation components and more PAP tenements could also be generated.

(c) In the earlier regime, the minimum requirement of consent was 70%. Under the new regime, this requirement has been reduced to 51% in order to ensure that slum schemes are accepted faster.

(d) In the earlier regime, no premiums were payable for schemes on Government lands. Presently, 25% value of the ASR of the slum scheme is payable to the Government. This ensures that no government lands 'go for free' in implementation of slum schemes."

135. The categories of slums are set out in Section 4, primarily being three categories, namely, slum areas declared under Sections 4 and 4A, and further slum rehabilitation area declared under Section 3C and Censused slum areas defined under Section 2(1b) of the Slum Act.

136. Regulation 33(10)(II)(viii) of the DCPR 2034 defines censused slums as hutments located on lands belonging to the Government or any of its undertakings or the MCGM, incorporated in the records of the land owning authority based on the census carried out in 1976, 1980 or 1985 or prior to 1 January 1995 and 1 January 2000.

137. In regard to the process of identification of slum and slum rehabilitation areas earlier and the process for redevelopment schemes, it is stated that for the rehabilitation of slums, the declaration of a slum rehabilitation scheme and slum rehabilitation areas is a prerequisite, the relevant provisions being Sections 4 and

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3C providing for the declaration of areas as ' slum areas' and 'slum rehabilitation areas', respectively.

138. For such purpose, actual physical surveys were carried out by the SRA / Competent Authority. A survey report of the area was prepared after being satisfied that slum like conditions existed. Public notices were issued by the SRA/Competent Authority declaring their intention to declare particular areas as Slum Areas. This physical process was time consuming and at times could not identify the boundaries of the slums accurately. The State prescribed minimum number of hutments for declaring areas as Slum Areas. In such context, Government Resolution dated 23 May 2001 was issued which stipulated that private lands can be declared as slum areas if they contained 25 or more slum structures. Further, a Government Resolution dated 5 August 2005 declared the issuance of photo-passes to slum structures situated on private land, land owned by the State Government within the jurisdiction of the BMC, and land owned by any other agency of the State Government, provided that 15 or more slum structures existed on such lands. It is stated that the minimum requirement of 15 structures does not apply to the declaration of slum rehabilitation areas. A reference is made to the notification issued by the SRA dated 23 May 2022 declaring all public and private lands on which slum structures existed prior to 1 January 2011 and had been declared as slum areas, or censused slums, as slum rehabilitation areas.

139. It is stated that as on date, the following is the data as regards the lands declared as Slum Rehabilitation Areas under Section 3C of the Slum Act:-

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Total Application received for declaration under Section 3C	471
Total No. of hutments	3,02,407
Final Order / Gaz. Notification Issued	261 (Area 3544496.82 sq.mtr.)
Application under consideration i.e. in process (at diff. Stages like DDLR Remarks, Joint Visit, Public Notice, Hearing)	120
Nos of applications Rejected	90

140. Further, in the current regime of submission / presentation of schemes in regard to selection of developers of the society, it is stated that once a slum rehabilitation area is declared, Regulation 33(10) of the DCPR 2034 mandates that at least 51% of the eligible slum dwellers in such an area must agree to join the slum rehabilitation scheme. It is stated that in such cases, a developer interested in executing the scheme is required to obtain the necessary consent from the eligible dwellers and subsequently submit a proposal to execute the slum rehabilitation scheme. Pertinently, the developer may be a non-governmental organization (NGO), provided it has been duly registered under the Maharashtra Public Charitable Trusts Act, 1961, and the Societies Registration Act, 1960, for at least five years prior.

141. Once a proposal is submitted by the developer, the SRA conducts a comprehensive scrutiny of the same by applying the contents of Circular No. 144 & 144A, which *inter alia* provides for verification of title, the financial capacity of the developer and availability of access roads.

142. SRA applies the provisions of Section 13(2) of the Act that if the owners, landholders or occupiers fail to come forth within a reasonable time, not exceeding 120 days, to relocate and rehabilitate protected and other occupiers, in

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such event, the SRA may determine to redevelop such land by entrusting it to any agency or developer. The SRA may also determine to redevelop such land entrusting it to any other agency or developer where an appointed developer does not adhere to the approved plan or violates any stipulated conditions or restrictions, including those pertaining to timelines.

143. In regard to slum area declared under Section 4 or 3C or a censused slum, all slum dwellers form a proposed slum society consisting of one Chief Promoter and 11 Managing Committee members. In such context, **Circular No.169** is issued by the SRA, which sets out the manner in which the meeting for appointment of the developer is to be held. A representative from the Cooperative Department by following the procedure as notified by SRA, which includes issuance of notice of meeting for selection of a developer, video-graphing of the meeting, biometrics, counting of votes cast under the statutory ballot constituency. After selection of the developer with 51% consent of slum dwellers, a proposal is submitted by the developer through its architect to the SRA for further permissions/scrutiny.

144. In regard to the consideration of claims as per the procedure prevailing as on date, it is the SRA's contention that the developers and Societies earlier were submitting incomplete proposals for blocking slum schemes. Such issue was considered by this Court in the case of **Atesham Ahmed Khan & Ors. vs. Lakadawala Developers Pvt. Ltd. & Ors.**,[51]. The Division Bench in the context of incomplete proposals has made significant observations:

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51 2011 (3) Mah. L.J. 604

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"10. The grievance, however, of the petitioners relates to the consequential directions that have been issued by the High Power Committee. The Committee has directed the Slum Rehabilitation Authority to obtain a report of the Competent Authority which was to verify draft Annexure-II submitted by the Architect of the first and second respondents. Now, in this regard it would be necessary to note that when a proposal is submitted by a proposed Co-operative Housing Society of slum dwellers the application is initially accepted and verified. The applicant is then required to pay the scrutiny fees upon which a scrutiny is conducted. Draft Annexure II containing a list of slum dwellers is thereafter forwarded by the Slum Rehabilitation Authority to the Competent Authority for verifying the names of eligible slum dwellers. In the case of public lands which are of the ownership of the State Government, the Additional Collector (Encroachment and Removal), who is the Competent Authority, has to verify draft Annexure -II containing names of slum dwellers who are eligible to participate in the Slum Rehabilitation Scheme and to certify it. At the stage when an application is submitted before the Slum Rehabilitation Authority, the application, as it stands, must indicate that the applicant fulfills the requirement of the requisite consent of 70% of the slum dwellers. The claim of the applicant is thereupon subject to scrutiny. But before the question of scrutiny arises, the application must on its face indicate that it fulfills the requirement of 70% consents. Hence, we find merit in the contention which has been urged on behalf of the petitioners in these proceedings that an application which on its face does not fulfill the requirement of DCR 33 (10), must be rejected. **The applicant cannot be allowed to progressively make up a deficiency in an application which does not ex facie fulfill the conditions on the date when it is submitted. In view of the judgment of the Division Bench in Awdesh Tiwari, the submission of an application operates to exclude all other Societies from having their applications received and processed by the Slum Rehabilitation Authority in respect of the scheme. Since the effect of the acceptance of the first application is to exclude from scrutiny all other applications until the scrutiny of the first application is complete, it is the bounden duty of the applicant to ensure that the application is complete in all respects and does not suffer from any deficiency. Any other construction would lead to the undesirable result that an application which is otherwise deficient and incomplete can progressively be improved upon over a prolonged period of time leading to a delay in the implementation of the Slum Rehabilitation Scheme**. Moreover, the mere submission of an application, however deficient, will operate to block ail other applicants. This could not possibly be the intent underlying DCR 33(10). Again it must be emphasized that the underlying logic of the judgment of the Division Bench in Awdesh Tiwari (supra) is to exclude the possibility of undesirable competition by unscrupulous elements resorting to extraneous means in the implementation of slum schemes. Hence the first applicant must act bona fide and in compliance with law by submitting an application which fulfills the requirements of a valid application. The application must fulfill the essential requirements of a valid application on the date on which it is submitted.

11. Having regard to this position, we are of the view that the Slum Rehabilitation Authority, in pursuance of the directions that were issued by the High Power Committee, must verify as to whether the application that was submitted by the first and second respondents was complete in all respects and fulfils the requirements of DCR 33,(10) in order to merit further

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> scrutiny and verification. We are not inclined at this stage to stay the process of verification of draft Annexure-II by the Competent Authority. Ultimately, if the order of the Slum Rehabilitation Authority has to be implemented, it is only necessary and proper that the list of eligible slum dwellers must be certified. Thus while we confirm the order that was passed by the High Power Committee, setting aside the decision of the Slum Rehabilitation Authority dated 26 October, 2006, we do so on the ground that the decision came to be rendered without furnishing an opportunity to the first and second respondents in compliance with the principles of natural justice. We, however, clarify that in this process the Slum Rehabilitation Authority shall determine as to whether the application submitted by the first and second respondents was complete in all respects and met the requirements of DCR 33(10). This must be determined by the Slum Rehabilitation Authority with reference to the date on which the application was submitted. In the meantime, we direct the Competent Authority to complete the process of verification of draft Annexure-II and remit it back to the Slum Rehabilitation Authority."

145. The SRA issued **Circular No. 141** to streamline the procedure in regard to the submission of schemes. The said circular was subsequently superseded by a circular dated 31 August 2013, which prescribes the manner in which proposals are to be submitted. This circular is in force till date.

146. The current procedure for the presentation of slum schemes on public lands is governed by **Circular No. 144**, under which the following procedure is contemplated:-

> "5.2.3.1. The promoter / developer/architect is required submit Annexures I to V to the Engineering Department, SRA. The SRA shall first check if there are any slum schemes pending for the land on which slum project is proposed. In case any scheme is pending, the proposal will be rejected forthwith.
>
> 5.2.3.2. In case there is no pending scheme, the proposal is inscribed as accepted, and the proposal is returned to the developer for further presentation. The accepted proposal is then submitted by the developer to the Executive Engineer. The Executive Engineer scrutinizes the proposal for having all relevant documents and accepts the same. In case the proposal is incomplete, the same is rejected.
>
> 5.2.3.3. The Executive Engineer then forwards the proposal to the relevant departments for their NOCs.
>
> 5.2.3.4. Annexures I to VI are given to the relevant departments. The Annexure I to VI are to be submitted in a particular format which is prescribed in the Forms to Circular 144. The details of the Annexures and the Departments are as under:

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Annexure I: Engineering Department of SRA: This document sets out the details about ownership of land, details of plot area, details of existing hutments and their type, computation of tenement density, extent and type of reservations, amenities, FSI available, number of tenements to be constructed including calculation of TDR etc. This annexure is a summary of the scheme which gives an overall perspective of the parameters of development which the developer intends to carry out.

Annexure II: Collector SRA/ land owning authority: This document sets out the details of the number of eligible hutment dwellers and the Appendix to this annexure sets out the consents of the slum dwellers.

i This is a draft Annexure II which is submitted by the developer which comprises all the slum dwellers who are residing on the plot, eligible and ineligible.

ii. The actual exercise of eligibility commences after the scheme is accepted. The Annexure II is scrutinized by the SRA and based on the documents of each slum dweller the eligibility is decided. In cases where the scheme is proposed on MCGM/MHADA land, the Annexure II is scrutinized and certified by such land owning authority.

Annexure III: Financial Department of SRA: This document sets out the financial capability of the developer for undertaking the entire project.

i. In this Annexure, the developer furnishes a statement by a Chartered Accountant/Director / Partner certifying the financials of the Company/ Firm.

ii. Tax returns of 3 years and audited income statements of 3 years are required to be submitted.

iii. Bank balance statement certified by the Bank is submitted.

iv. The cost of construction of each tenement is Rs. 2,64,000/-. Based on the number of tenements proposed to be constructed, the final figure is required to be specified. Proof of availability of 20% of the amount of such final figure is required to be furnished.

v. The funding plan for 80% of the amount as specified above is also required to furnished.

Annexure IV: Town Planning Department: The Sectorial Planning remarks for the proposed S.R. Scheme are offered in consonance with the Development Plan. In this Annexure, the developer is required to furnish the following documents.

i. P.R Cards of the particular land.

ii. CTS Plans.

iii. Kami Jasta Patra (Original).

iv. 7/12 extract if applicable.

v. Notarized copy of the Development Agreement and Power of Attorney.

vi. Notarized copy of the Government Resolution under Section 14 in cases where owners refuse to give consent and the application for land

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acquisition.

vii. Plot area certificate prepared by the Architect.

viii. Plot area calculation by triangular method.

Annexure V: Cooperative Department: Compliance of SRA Circular No. 169 is insisted on. With this annexure, the Developer is required to submit a notarized copy of the GBR of the society.

Annexure VI - Deputy Director-Town planning department -With this Annexure, the developer submits the following documents.

i. Certified true copy of the DP Remarks.

ii. Certified true copy of the A. E Survey Remarks.

iii. Certified true copy of A. E. (Maintenance) - status of road access.

iv. Superimposed plans which include the Slum plans / DP Plans/CTS Plans along with the slum boundary.

5.2.3.5. The relevant departments after scrutinizing the proposals submit their reports to the Engineering Department. The Engineering Department on scrutinizing the reports decides whether the same has to be accepted or rejected. On the proposal being accepted, acceptance fees is required to be paid by the developer. In case the proposal is rejected, the same is conveyed to the developer."

147. On behalf of the SRA, the issues which are faced by it in scrutiny of the proposals and more specifically the Annexure II, are to the effect that (i) the process of verification/certification of Annexure II as contemplated by the circulars is found to be time consuming, more particularly by the land owning authority, as the draft Annexure II, after verification by the SRA, would be forwarded to the relevant land owning authority; (ii) The Annexure II declares the eligibility of the slum dwellers. On the certification of the Annexure II, the ineligible slum dwellers resort to proceedings and challenge the certification as also refuse to hand over/vacate their respective tenements; (iii) After the issuance of Annexure II by the competent authority, slum dwellers divide their hutments by creating a partition and during proceedings under Sections 33 and 38, additional homes for divided hutments are demanded.

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148. Further, the number of eligible slum dwellers keeps changing, due to certain slum dwellers becoming eligible subsequently. This would affect the number of tenements which the developer proposed to construct. Under the DCR 1991 regime, this would affect the scheme itself since the parameters of the scheme were based on the number of eligible slum dwellers.

149. Submissions are made in regard to the current procedure for presentation of slum schemes on private lands, which are governed by Circular 144A as issued by the Slum Rehabilitation Authority. This is in respect of private lands which are declared as slum rehabilitation areas under Section 3C of the Slum Act. The owners of the private lands would have peremptory rights to implement the slum rehabilitation scheme and in respect of which the proposal which is submitted is scrutinized as per the provisions of Circular 144A. It is issued considering the settled principles of law that after declaration of areas as slum rehabilitation areas under Section 3C, a notice of 120 days is required to be issued by the SRA to the owners/persons whose name is on the Property Record Card to come forward and submit a slum scheme. Also, in case of areas which are already declared as Slum Rehabilitation Areas, and where no slum schemes are being implemented, the SRA, following the decision of this Court as also the Supreme Court of India, issues a notice of 120 days to the owners to come forward and submit a slum rehabilitation scheme. It is also provided that in regard to privately owned lands where the schemes are submitted by the owners, the same can be submitted without obtaining the consent of the slum dwellers. The condition of Annexure No. II required in circular no. 144 is relaxed at the time of submission of the

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proposal. It is only after the scheme is accepted and before the LOI (Letter of Intent) is issued, such consents are required to be furnished. It is also provided that where the owner does not submit the Slum Rehabilitation scheme as per Circular 144A in 120 days, acquisition of private land as per the provisions of Section 14(1) is initiated and the procedure is accordingly set into motion. Also, the Society of slum dwellers has the liberty to appoint a developer of its choice with a minimum 51% consent of the slum dwellers.

150. Relevant data regarding the slum schemes in Mumbai : As of 30 June, 2025, the Slum Rehabilitation Authority is stated to have received 2784 Slum Rehabilitation Schemes (**SRS**) under Section 3B of the Slum Act. Out of the said 2784 schemes submitted, 2308 SRS are accepted and 236 SRS are rejected, while 240 SRS are under scrutiny. The ward-wise details with the highest number of schemes in some of the wards are noticed in the following chart:

Sr. No.	Ward	Total Proposal submitted	Present Status of Accepted Schemes		
			Accepted	Under Scrutiny	Recorded/ Rejected
1	A	9	7	1	1
2	B	1	1	0	0
3	C	0	0	0	0
4	D	11	10	0	1
5	E	12	12	0	0
6	FS	53	48	14	4
7	FN	108	95	12	1
8	GA	70	65	0	5
9	GN	122	119	0	3
10	HE	141	118	8	15
11	HW	161	137	12	12
12	KE	124	75	30	19
13	KW	175	125	40	10

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14	L	41	25	15	1
15	ME	219	208	0	11
16	MW	171	129	18	24
17	PN	120	82	24	14
18	PS	83	68	4	11
19	RC	136	119	7	10
20	RS	96	48	17	31
21	RN	60	46	4	10
22	N	60	34	4	22
23	S	121	78	32	11
24	T	108	77	11	20
	Total	**2784**	**2308**	**240**	**236**

151. Following is the bifurcation of 2308 accepted schemes:

Sr. No.	Regulation	No. of Accepted Schemes	No. of sanctioned schemes (LOI)	Schemes under scrutiny	Remarks
1	33(10)	1902	1402	500	a) 116 SR Schemes Ann. II received and under scrutiny at various level. b) 384 Scheme Preparation of Annexure-II is in progress.
2	3.11	45	45	0	
3	33(11)	361	349	12	Proposals are under scrutiny
TOTAL		2308	1796	512	

152. Following is the summary of Sanctioned 1402 S.R. Schemes under Regulation 33(10) for which LOI is issued:

Relevant Regulation	Total number of Sanctioned Schemes	Number of Completed Schemes	No of ongoing schemes
Scheme of 33(10) on Pvt. Land	575	566	836
Scheme of 33(10) on Govt. Land	827		
Total Scheme of 33(10)	1402		

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153. Following are the details of sanctioned PTC/PAP Schemes:

Relevant Regulation	Total number of Sanctioned Schemes	Number of Completed Schemes	No of ongoing schemes
Clause 3.11 of 33(10)	45	30	15
Regulation 33(11)	349	125	224
Total	**394**	**155**	**239**

154. Following is the status of halted Slum Rehabilitation Schemes under Regulation 33(10):

Sr. No.	Description	Number of Schemes	Additional Remarks
1	Non-availability of finance and other reasons	82	Action under Section 13(2) of Slum Act is to be initiated.
2	Developer removed due to inefficiency as per Section 13(2) of the Slum Act	17	Schemes can progress further on the appointment of new developers by Society.
3	Litigation before the Hon'ble Supreme Court and Hon'ble High Court	15	N.A.
4	Schemes delayed due to non-submission of NOC from other Departments:	⇓	⇓
	A. Coastal Regulation Zones-II ("**CRZ-II**")	2	Developers have app approached concerned authorities for NOC but are yet to receive the same.
	B. Civil Aviation Authority	4	
	C. Ministry of Environment, Forest and Climate Change ("MoEFCC") & Defence Department	12	Schemes are halted due to a stay imposed by the Hon'ble Supreme Court of India.
	Total	**132**	

155. The following table provides a ward-wise summary of slum rehabilitation schemes, showing the total number of schemes, total slum dwellers as per LOI,

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tenements handed over to eligible slum dwellers, PAPs and PTCs sanctioned as per the last revised LOI, PAPs and PTCs actually handed over, and the total rehabilitation tenements completed.

Ward	Total Nos. of Schemes (33 (10), 33 (11) & 3.11 of 33 (10))	Total Slum Dwellers as per LOI	Total Nos. of T/s handed over to eligible slum dwellers	Nos. of PAPs as per last revised LOI	Nos. of PAPs Handed Over	Nos. of PTCs as per last revised LOI	No of PTCs Handed Over	Rehab tenements, PTCs and PAPs (4+6+8)
1	2	3	4	5	6	7	8	9
								(4+6+8)
A	6	8002	3095	324	0	0	0	3095
D	6	3897	2808	54	34	0	0	2842
E	12	1066	930	328	136	0	0	1066
FN	68	25324	23241	2175	168	49	49	23458
FS	35	15688	7423	705	100	190	46	7569
GN	53	9034	5852	357	90	206	0	5942
GN (Dharavi)	65	9056	8448	804	393	622	612	9453
GS	54	28409	15208	913	109	0	0	15317
HE	95	28576	12234	3152	711	359	246	13191
HW	116	24834	5616	2363	855	1331	30	6501
KE	159	36379	15469	5733	2805	1217	600	18874
KW	176	31360	12352	5221	431	2449	372	13155
L	81	10040	4527	47875	34086	1133	275	38888
ME	47	17696	2497	44700	32339	293	186	35022
MW	71	20241	4725	22351	18370	478	82	23177
N	124	28488	6499	5863	617	1353	76	7192
PN	125	40994	19379	4853	719	3766	1587	21685
PS	58	15319	5448	1824	255	128	114	5817
RC	99	18486	4861	3369	917	53	11	5789
RN	46	9488	4598	1773	1079	402	96	5773
RS	97	27680	8747	5108	978	3612	798	10523
S	117	15640	1297	1520	246	0	0	1543
T	86	9384	3998	4286	294	3229	145	4437
Grand Total	**1796**	**435081**	**179252**	**165651**	**95732**	**20870**	**5325**	**280309**

156. **Steps taken for identification of slums and slum dwellers** :-

(1) The SRA has employed advanced technology to identify slum areas, slum hutments and slum dwellers residing in such hutments and also their eligibility for allotment of permanent alternate accommodation. The SRA, by appointing specialized agencies, has carried out an extensive mapping of

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slums areas in Mumbai and is also linking the hutments in such slum areas with the slum dwellers residing in such hutments.

(2) Since 2022-23, the SRA has relied on methods such as drone surveys, satellite and GIS mapping, geo – tagging and biometrics to holistically identify the slum areas and slum hutments existing in such areas as also their eligibility. The different processes as adopted are:

(I) **Current process of identification of slums and slum dwellers** -

(i) **Marking of slum cluster boundaries using satellite images and topographical survey and DGPS survey**:- 1) The SRA has acquired satellite images for areas of Mumbai and identified slum clusters. From the images, the SRA has identified the patches / clusters of slums and its outer boundaries; 2) The SRA has appointed an agency to physically verify the boundary based on the satellite images. Such designated persons visit the slum clusters and physically identify the boundaries of such clusters. This process is called as 'topographical survey'; 3) At the time of survey of boundaries, the designated person also places digital markers / identifiers on the boundaries which makes the identification of boundaries even more accurate. These points are known as 'Differential Global Positioning System Points' (DGPS Points). The process of identification of the boundaries based on such DGPS Points is called as the DGPS Survey; 4) The SRA has taken a decision to ascertain the encroachments of slums through satellite images from Bhaskaracharya National Institute for Space

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Application and Geo Informatics (BISAG-N); 5)Also, a mobile application will be provided by BISAG-N based on the area identified as slums through satellite maps. An outer boundary is identified. Through the satellite images, the structures which are within the slums, are also identified. Further, in the event of any encroachment/new addition in the slum areas within and outside the boundary, an encroachment trigger gets activated on the application, notifying such encroachment. Such data can be used by the SRA in the sanctioned / on-going scheme. This application will help the competent authorities to issue notices to the unauthorized structures and initiate relevant action of demolition under the Slum Act.

(ii) **Drone Survey and GIS Mapping** :- 1) Based on the satellite imagery and topographical survey, high resolution images are taken by aerial photography carried out by drones, being the drone survey. By clicking high resolution images of slum clusters, the SRA is able to identify a reasonably accurate number of hutments which exist on the lands. These hutments from the air appear in the shape of polygons. Based on the number of such polygonal shapes which appear in the drone photography, the number of hutments is determined; 2) By identifying the number of hutments by drone survey, a base map of the number of hutments is prepared. This map is known as a 'Geographic Information System Map'. On such map, a demarcation of each hutment is made and boundaries of such hutments are identified in respect of each of the hutments in the cluster.

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(iii) **Biometrics** :-

Sensitisation meetings :- It is contended that before commencing the actual door-to-door surveys in the slums, in order to make people aware of the process of identification of hutments, sensitisation meetings were held where the experts and officers from SRA explain to the slum dwellers the nature of the exercise being undertaken and their legal rights.

Door to door survey :- Also, there is a door-to-door survey which is undertaken after the GIS mapping and marking of boundaries of hutments, and after the sensitisation meetings, a physical survey of each hutment is undertaken. The door-to-door survey is carried out by appointing agencies in which the appointed person paints a unique number on each hutment. By visiting the hutment, the following data is collected from each hutment:-

. Hut photos from front and side; (360 degree photograph);

. Photos of slum dweller and his family members;

. Self-declaration video from the slum dweller;

. Short video of the inside of the hutment;

. Signed self-declaration from the slum dweller;

. Available proof of existence of the hutment from year before 2000-2011 and additional documents such as electricity bills, survey receipt from the year 2000, Gumasta licence, etc.

. Aadhar Card details and biometric of hutment occupant.

. Hutment measurements.

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Geo – tagging :- Further, there is geo-tagging on the hutments being marked and being given a unique number, such tenement is linked with the hutment as visible on the GIS Map. This linking/tagging of each such hutment on the GIS Map is known as Geo-tagging. After such tagging, the details of each hutment, dwellers of the hutment and all details acquired during the door to door survey get linked with the GIS Map.

(iv) **Slum Information Management System**:- After the entire data as aforesaid is gathered, the same is fed into a data system which contains all particulars from the satellite imagery to the biometric details of each slum dweller. This database is known as the Slum Information Management System (SIMS).

The following are the details of the extent of the survey carried out by the SRA:-

Total number of Slum Clusters	- 2599
Total number of Huts to be surveyed	- 1379086
Drone Survey Completed (GIS)	- 1078746 (out of 1379086)
Total numbering done	- 848426 (out of 1078746)
Total Biometric Survey done	- 577782 (out of 833668)
Total Annexure II issued	- 3,81,029 (out of 577771)
Total Annexure II in process	- 1,96,742

Auto – Annexure – II :- It is stated that preparation of Annexure-II has historically been a time-consuming process. To streamline, simplify and expedite this process, the SRA introduced the Auto Annexure-II in the

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year 2021. This is a process of generation of the list of all eligible slum dwellers by relying on the Geo-tagged hutments, the electoral roll / documents available and the Aadhaar Card of slum dwellers. After collection of the biometric data, all the relevant documents including the electoral roll, Aadhaar card, electricity bills, photopasses etc. are aggregated in the SIMS and a comprehensive list of names and supporting documents is generated and it is based on such available documents that the eligible and non-eligible slum dwellers are identified and this becomes the Annexure II. In the year 2023, the SRA developed a software application through an agency that integrates data from various authorities, including electricity distribution licensees (BEST, Adani, TATA), and includes information from sources such as the Electoral Roll, Shop Establishment License, Photo Pass etc. to ensure that no false or forged documents are submitted by slum-dwellers. Additionally, for increased transparency, the SRA has also started publishing certified Annexure-II documents on their official website to make them publicly available.

Database of beneficiaries in existing rehabilitation schemes – To identify if a slum-dweller has previously secured an allotment, the SRA has issued a tender for the creation of a database of rehabilitation/PAP/PTC tenements allotted since its inception. The SRA has developed an online application called "Transfer of Tenements" to digitize the entire process of transferring tenements, including application submission, online fee payment, and issuance of NOC for transfer. It is stated that this database would ensure

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that slum-dwellers who have been accommodated in slum schemes already, do not get any new tenements in other slum schemes. The purpose of inclusion of PAP and PTC in the database is to ensure that the dwellers who are already accommodated in such PAPs / PTCs are also identified in order to avoid multiple allotments being made to the same dweller.

Online procedures :- It is stated that the SRA has computerized several processes and made them online. Processes such as the Rent Management System, Slum Information Management System, Auto Annexure-II, online allotment of tenements through a lottery system, etc have been made online. The SRA has also implemented an Online Visitor Management System whereby the visitors of the website can interact with the SRA and clarify queries which the visitors may have.

157. **Improvements made to the process of selection of new developers and proposed steps for improvement in the selection process.**

(i) **Robust Panel of developers:** The SRA has stated that in order to identify developers with sound financial and experience in implementing slum and infrastructure projects, the SRA with the assistance of the State of Maharashtra is in the process of 'creating a robust panel of developers based on criteria specified'. In such context,through a public notice, applications were invited from developers and a proposal for the empanelment of developers in three different categories i.e., A, B and C was submitted for approval to the State Government after a technical and financial scrutiny of

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the applications. It is stated that the State Government has approved 15 developer firms/companies in A category, 9 in B category and 6 in C category on 6th June 2023. The SRA has received an application for empanelment by 20 other developers. The SRA has recommended the empanelment and the same is subject to the approval from the State Government.

(ii) **Conditions of empanelment of developers** - For the purpose of empanelment, the SRA and State Government have imposed certain criteria such as financial wherewithal, prior experience in implementation of slum projects etc., the details of which are stated to be as under:

Sr. No.	Developer category	Technical Criteria	Financial Criteria	Infrastructure Experience
1	A	Developer has completed real estate Projects with Occupation Certificate, at least 5 Lakhs Sq. Ft. or Rera Carpet Area.	The Developer should have minimum net worth of INR 25 Crores. & Working capital worth of INR 25 Crores & Working capital-in-hand of INR 5 Crores & Bid capacity:- minimum 75 Crores or more	The Developer should have experience in Real Estate Development of more than 5 years. & The Developer should not be Debarred/ Disqualified/ Defaulter or any court cases pending against promoters/company during last 5 years.
2	B	Developer has completed Real Estate Projects with Occupation Certificate, at least 2.5 Lakhs Sq. Ft. or Rera Carpet Area.	The Developer should have minimum net worth of INR 12.50 Crores. & Working capital-in-hand of INR 2.5 Crores & Bid capacity:- minimum 37.5 Crores or more	- do -
3	C	Developer has completed Real Estate Projects with Occupation Certificate, at	The Developer should have minimum net worth of INR 5 Crores. & Working capital-in-hand of INR 1 Crores	- do -

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		least .125 Lakhs Sq. Ft. or Rera Carpet Area.	& Bid capacity:- minimum 25 Crores or more	

(iii) **Proposed steps being considered by SRA** :- To strengthen the verification process of a developer's financial capacity, the SRA is considering several key proposals- to consider the financial strength of the Developer, the cost of construction of tenement is increased as earlier the cost of construction was Rs. 2,64,000/-. On that basis, 20% of the amount was required to be available with the Developer and the source of funds for the balance was required to be furnished. The SRA is now considering increasing the cost of construction per rehabilitation tenement to Rs. 12,50,000/-. It is stated that limiting the validity of a developer's financial assessment is being limited to six months, when the financial capacity of a developer is assessed. It is further stated that after the expiry of this period, it will have to be reassessed before issuance of acceptance or LOI. To ensure viability, the financial capacity will be reassessed on an annual basis from the date of issuance of Financial Controller's FC-NOC/Annexure-III until issuance of OC for rehabilitation of buildings is issued. During such reassessment, if it is noted that no notable progress has been made on the project for 'over a year', automatic cancellation of FC-NOC/Annexure-III will be considered to prevent further delay and misuse.

Delay in implementation of the slum schemes and steps taken to avoid /remedy delay.

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158. The followings are stated to be the causes for delay:-

(i) **Financial incapability** – It is observed by the SRA time and again that once the developers have secured the schemes, no work is carried out and there is inexplicable delay in implementation and completion of schemes. The developers, while executing the project face various financial difficulties. The developers take loans by mortgaging the free-sale components and further complicate the implementation of schemes. Very often, the developers become financially incapable of implementing the project and such project then gets stuck.

(ii) **Waiting for schemes to become more lucrative and trading of schemes**. It is observed that developers, after taking projects, wait for projects to become financially more viable and lucrative by waiting for a policy to change etc. Developers also trade 'slum schemes' away to other developers either by way of transfer of shares of the developers company or by way of outright sale of the scheme. Such transfers create new hurdles which delay schemes further.

(iii) **Injunctions by Courts**. In many slum projects, it was observed that the slum scheme itself was on a land which was reserved as an open space. Such slum schemes were held up and no proposals were processed in accordance with the directions given by this Court in the case of **NGO Alliance for Goverance and Renewal (NAGAR) & Ors. vs. State of Maharashtra & Ors. [Cityspace]**[52]. In other slum projects, where the developer has been terminated and orders have been passed by the CEO-SRA and the AGRC,

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the parties have challenged the same by filing Writ Petitions before the Hon'ble Bombay High Court and have obtained injunctions staying the schemes. Due to the pendency of such matters, the scheme itself gets delayed.

159. **Power exercised under Section 13 (2) of the Slum Act**. In order to deal with the delay in SRA projects and the circumstances where schemes are being carried out contrary to approvals, powers have been conferred on the SRA to terminate the mandate of the developer under Section 13 (2), either on a complaint by the members of the Society, or suo motu by the SRA itself. There are other decisions of the Court on such issues.

160. It is stated that the power under Section 13 (2) is not exercised only for delay in implementation of the scheme, but also for any construction carried out in violation of the plans sanctioned under Section 12 (10) of the Slum Act or any contravention thereof. Further, the SRA has also exercised such power for non-payment of transit rents to the sum dwellers.

161. The following table, according to the SRA, would depict proceedings under Section 13 (2) of the Act in the past 5 years:-

Year	Total Applications Received	Proceedings under 13(2) completed	Pending Proceedings
2020-21	36	36	0
2021-22	49	49	0
2022-23	62	57	5
2023-24	65	65	0
2024-25	84	79	5
Total	296	291	5
In accordance with Circular No. 169, the SRA has also conducted General Meeting of the societies of slum dwellers and 27 General Body Resolution been			

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passed in the year 2024-2025 for the change of developer.

162. **Steps taken to revive stalled projects** - It has very often been noticed that projects are stalled due to lack of availability of sufficient finances. The projects get stalled and then complaints are filed under Section 13 (2) of the Slum Act for termination of such developers due to delay in implementation of the schemes. It was also observed that certain developers availed finances from financial institutions and despite such finances, fail to implement the schemes. (**Where does the finance go?**) To address such situations, the SRA and the State of Maharashtra have introduced measures. On 20 April 2022, 517 SRS [including schemes on private plots under Regulation 33(11) and 33(14D)] approved prior to 2014 were identified as delayed due to non-compliance with requisite conditions on the part of developers. Also, the Housing Department issued a Government Resolution on 25 May 2022 by which it approved two options to implement the stalled schemes: (a) Appointment of Developers by adopting a bidding process; (b) an Amnesty Scheme. Additionally, there is a joint venture policy floated by the State Government to tackle stalled projects.

163. **Appointment of Developers by adopting a bidding process –** On 20 April 2022, the SRA, after ascertaining the details of stalled schemes had issued an order rejecting / recording 517 slum schemes which as per the records of the SRA had become dormant and no redevelopment process in the same was being carried out. The said decision came to be challenged before this Court and the same was set aside as a blanket order. The Hon'ble Court directed that individual

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notices be sent to developers who have delayed implementing the schemes.

164. The status as on 30 June 2025 of the said 517 schemes recorded on 20 April 2022 is stated to be as under:-

Present Status as on 30th June 2025 of 517 schemes (recorded on 20th April, 2022)					
No. of Schemes	Nos of schemes under sec. 33(14)D, Repeated and Inadvertently included in the list.	No. of schemes where action needs to be initiated.	Nos. of S.R. schemes in which developer terminated.	Closed for Order S.R. Schemes.	Pending S.R. Schemes
1	2	3 (2-1)	4	5	6
517	31	486	312	12	126

165. The SRA has scrutinized each of the 517 schemes and found that out of these 517 schemes, some were included inadvertently. 486 schemes are stated to be identified for further action. The SRA initiated action under Section 13 (2) by entrusting the scheme to any agency or other developer recognized by it after giving an opportunity of hearing. It is stated that the SRA is appointing developers by adopting a bidding process in slum rehabilitation schemes through a tendering process.

166. It is stated that out of the 517 schemes, orders have been issued in case of 306 schemes wherein either new developers have been appointed or some existing developers have been retained.

167. It is stated that tenders were invited for stalled schemes on 'Government lands'. The SRA floated a tender for 10 stalled schemes in respect of which the mandate of the developers was terminated. On 2 June 2025, a tender was floated and bids were invited for implementing and completing such stalled projects, to

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be submitted by 19 June 2025. However, no bids were received. There were three extensions granted for submission of bids. The last extension was till 25 July 2025 and only one bid was received for one scheme. The response to the process of tendering has been poor.

168. **Amnesty Scheme** – It is stated that several developers, despite having financial backing from recognized financial institutions, failed to complete the slum rehabilitation schemes, adversely affecting both slum dwellers and the financial institutions involved. Neither the SRA nor the State Government maintained any records of the financial institutions that had invested in the State's slum rehabilitation schemes. These financial institutions had an interest in ensuring that the development is completed.

169. Consequent thereto, the Housing Department issued a Government Resolution dated 25 May 2022, allowing financial institutions regulated/ recognized by the Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI), or the National Housing Board (NHB) to send in applications under the said amnesty scheme. Once a proposal from any financial institution is accepted, they would be recorded as co-developers of the scheme.

170. It is sufficient for the Committee of the Government to appoint the developer/financial institution. A separate resolution of the Annual General Meeting is not needed. The 5% premium that is otherwise payable because of change of developers does not apply in such cases. The financial institution must complete the slum rehabilitation scheme within the agreed timelines. It must pay

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transit rent to eligible slum dwellers without fail. Further, the matter of pending transit rent must be discussed with the CEO (SRA) and the slum dwellers' association, after which a consensus must be reached on payment of transit rent, failing which the Letter of Intent is not issued. Submission of Annexure III, in relation to the financial capacity to be established, is mandatory. The details of the schemes received till date are stated to be as under:

Details of Amnesty Applications				
Sr. No.	Name of Financial Institution	No. of Schemes	Accepted Schemes	Dropped Schemes
1	JC Flowers Asset Reconstruction Private Limited	3	3	0
2	Piramal Capital & Housing Finance	10	5	5
3	IIFL Finance Limited	16	9	7
4	Edelweiss ARC	2	2	0
5	ACRE	4	2	2
6	Sanghvi Finance Pvt Ltd	1	1	0
7	Thar Commercial Finance Ltd* (Veena Developers)	1	1	0
8	India Bulls	1		1
9	HDFC (PN)	1		1
10	Yes Bank	2		2
11	Wadhwa Group Holding Pvt. Ltd.	1		1
12	HDFC & Lodha / Macrotech Developer Limited* (KE)	1		1
13	M/s Mack Star Marketing Pvt. Ltd	1		1
14	Inspira realty	1		1
15	OMKARA assets Reconstruction Pvt Ltd	1		1
16	Omkar Realtors and Developers Pvt. Ltd.	1		1
Total		**47**	**23**	**24**

171. It is stated that as a result of the Amnesty Scheme, 157.73 Crores of outstanding rent was recovered and paid to slum dwellers. In addition, two years advance rent was also deposited as per Circular No. 210.

Steps taken to monitor delay in schemes activated under the Amnesty Scheme –

172. The SRA introduced the following measures to ensure that the schemes

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activated under the amnesty scheme are completed on time and the delay does not defeat the purpose of the legislation, such as submission of bar-chart. The developers are directed to submit Bar Chart and Critical Path Method (CPM) charts depicting the exact time frames in which various phases of the redevelopment project are to be completed as a registered undertaking to ensure time-bound completion of projects. Also the developers are required to furnish date-wise/stage-wise progress reports of existing SRS, if any, before the sanction of FC-NOC/Annexure-III. It is stated that in cases where existing schemes of the developer are delayed or incomplete, the developer will be required to demonstrate the financial capacity to carry out the existing as well as new projects. Also, the concerned developer implementing the scheme is required to submit a bar chart outlining the deadlines of the project and also submit a phase wise programme of implementation of the S.R. Scheme. On failure to implement the scheme in a timely manner, a Show Cause Notice is given for the delay caused. The developer is terminated if no satisfactory explanation is offered. Such proceedings for termination of the developer are undertaken either on the complaints received, or suo-motu.

173. Submissions of monthly progress reports are made mandatory for developers and architects. Also in regard to some of the schemes approved under the amnesty scheme where progress is not being made / rent not paid, action has already been initiated.

Steps taken for redevelopment of public lands by public authorities. -

174. The slum rehabilitation schemes on public lands are carried out in

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accordance with the provisions of the DCPR 2034. In order to ensure that public lands do not go for free and the authority owning the land does not suffer a loss due to implementation of the slum scheme and to safeguard the interest of the Government/Statutory authorities various provisions have been introduced in the DCPR 2034. In such context, Regulation 33 (10) (1.11) provides for a payment of premium of 25% of the Annual Statement of Rates to the landowning authority. Further, the land on which free - sale component is constructed is given on lease and power has been conferred on the SRA to determine the lease rent payable. In addition, any reserve lands on the property also become free of encroachments. It is stated that carrying out of the slum rehabilitation projects on the said land also leads to the creation of PAPs, which had been handed over to the SRA and in turn creates a pool of housing which is utilized by various authorities.

175. In the recent past, the State Government, the SRA and other planning bodies have endeavoured to undertake redevelopment of slums themselves on a joint venture basis. Policies have been brought into force by the State of Maharashtra to ensure smooth implementation of such schemes which are undertaken by the planning bodies themselves. The SRA has itself undertaken to carry out slum schemes. The relevant policies are as under:-

(i) SRA acting as the developer itself - In the recent past, the SRA has acted as the developer of the projects for implementing the Slum Scheme. One such example is the rehabilitation of slum dwellers occupying the site where the Sahityaratna Lokshahir Annabhau Sathe Memorial is proposed

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to be constructed. The area had 640 slum dwellers. The State Government approved this project as a vital project on 11th March 2024 and approved an estimate of Rs. 305 crores as the project cost. The SRA will be implementing this project and all project-related costs will be spent from the SRA's account. This project will have approximately 520 residential units and 120 commercial units.

(ii) Joint venture with Public Authorities - With a view to ensuring that public lands on which the mandate of the developers had been terminated could be expeditiously developed, a decision was taken by the Government that in such circumstances, the land may revert to the land owning agencies who would then complete the scheme within a 3 year time frame. The target is to create 2 lakh affordable tenements as a pool of housing.

176. The State Government in such context, approved a joint venture policy and issued a Government Resolution dated 21 September 2023 prescribing certain terms and conditions for the implementation of this policy. The terms and conditions being :(i)Projects where a developer is unable to complete the project and it remains stalled will be completed through a joint venture arrangement;

(ii) The process stipulated under the Slum Act for changing the developer will be adhered to.

(iii) An economic and technical feasibility study must be conducted

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prior to the handover of the scheme to the public authority.

(iv) An agreement must be executed between the SRA and the relevant public authority concerning the project.

(v) The SRA will act as the Planning Authority for these schemes.

(vi) The local authority or civic body will be responsible for constructing the rehabilitation and sale components of the projects. They will then be permitted to sell the sale component in the open market under the 'affordable housing for all' scheme to recover construction and other associated expenses.

(vii) The public authority will be tasked with providing transit rent and accommodation to the displaced slum dwellers.

(viii) For stalled projects, the concerned authority/body must pay to the old developer the amount determined by an SRA empanelled valuer for the costs incurred by the old developer.

On the basis of the Chief Minister's announcement, the Housing Department vide letter dated 26 June 2024 directed the SRA to submit a proposal for implementation of joint venture schemes with various government agencies i.e., BMC/ CIDCO/ MIDC/ MahaPREIT/MHADA/ Mumbai Metropolitan Region Development Authority ("MMRDA")/ Maharashtra State Road Development Corporation Limited ("MSRDC"), etc. As a result, 228 schemes have been allocated to public authorities like the BMC, CIDCO, MAHAPREIT, MHADA, MSRDC. The details of

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which are as under:-

Sr. No.	Government / Semi-Government Organization	No. of Schemes	No. of Tenements
1	Brihanmumbai Municipal Corporation	77	51,002
2	MHADA	24	33,915
3	MMRDA	5	28,050
4	MSRDC	46	27,649
5	CIDCO	6	25,740
6	MAHAPREIT	57	26,094
7	MIDC	12	25,668
8	MAHA HOUSING	1	813
	Total	**228**	**2,18,931**

Policy dated 28 March 2025 appointing MCGM as the Planning Authority for slums situated on lands owned by MCGM.

177. The State of Maharashtra on 28 March 2025 in exercise of powers under Section 154 of the MRTP Act issued a Government Resolution appointing MCGM as the planning authority for slums situated on lands owned by the MCGM. The said GR was issued in order to expedite the implementation of slum schemes on MCGM lands.

Transit accommodation and rent -

178. During the implementation of the Slum Scheme, there is an obligation on the developer to provide either transit accommodation or rent till such time the scheme is implemented. However, in a large number of cases, it is found that neither accommodation is given, nor the transit rent is paid. Large arrears of rent accumulated leading to the developer becoming financially incapable and the

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scheme becoming unviable, is what is observed. The slum dwellers upon not receiving rents, also face further displacement leading to further proliferation of slums. To address these issues, the following measures have been implemented:-

(i) Appointment of nodal officers and notices to pay transit rent outstanding as on 7 December 2022. In 2019, two public interest litigations were filed before this Court concerning the non-payment of transit rent. It was brought to light that a significant amount of approximately Rs. 620 crores in transit rent was pending payment by various developers across 150 schemes as of 7 December, 2022;

This Court directed the SRA to proactively take measures to ensure that the slum dwellers receive transit rent. This Court specifically directed that the SRA should appoint a Nodal Officer and call for representations/ complaints from the cooperative housing societies of the slum dwellers if they have grievances regarding the non-payment of transit rent.

The SRA has appointed 25 ward-wise nodal officers. They have also published information regarding their appointment in various newspapers having wide circulation in Mumbai City and suburban areas and displayed it on the official website of the SRA. Separately, the SRA also issued a notice to the concerned developers asking them to pay all eligible slum-dwellers within 15 days, or face legal action and suspension. Such notices were also published in two local newspapers.

(ii) Appointment of Auditors for determining pending transit rent:-

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While dealing with the issue of non-payment of the transit rent, this Court had also directed the SRA to take necessary action based on the complaints or grievances of the slum dwellers in respect of pending transit rent. It was also noted that this Court noted that the SRA can indicate the action taken as against such representations/complaints on their portal. This was in addition to the individual communications made to the cooperative societies of slum dwellers which are already made.

In furtherance of this direction, the SRA regularly appoints auditors to determine the amount of transit rent pending in respect of societies from which any complaints regarding the non-payment of transit rent have been received. As on 30 June 2025, the position was that the SRA had appointed 155 empanelled auditors. The assessment of pending rent in the 155 schemes is reflected in the following statement:-

Ward	Societies / Schemes	Auditors Appointed
A	0	0
B	0	0
C	0	0
D	0	0
E	0	0
F/S	5	5
F/N	17	17
G/S	7	7
G/N	10	10
L	3	3
M/E	8	8
M/W	2	2
N	3	3
S	6	6
T	6	6
H/E	4	4
H/W	7	7
K/E	12	12

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K/W	6	6
P/S	10	10
P/N	22	22
R/S	14	14
R/C	12	12
R/N	1	1
TOTAL		**155**

179. Based on the transit rent determined by the appointed auditors, the SRA issued notices to the concerned developers asking them to pay all eligible slum-dwellers within 15 days, or face legal action which includes suspension. Such notices are also published in two local newspapers.

180. **Circular No. 210 and 210A**. - These circulars are issued in furtherance of the orders passed by this Court. The salient features thereof are as follows:-

(i) In respect of new projects at the stage of Annexure III (financial capacity of the developer), the developer is to submit a plan indicating the area proposed to be developed in each phase i.e. Phase I, II, III etc. The developer is required to submit a statement by the architect indicating the number of structures required to be demolished in each phase as well as the area to be developed in each phase.

(ii) Most importantly, the Developers must deposit two years transit rent in advance and one year's rent must be deposited by way of post-dated cheques for the third year for the slum dwellers who would be evicted in the first phase. The Executive Engineers of the SRA are to process the Letter of Intent only after receipt of transit rent,

(iii) The Commencement Certificates shall also be issued in a phase wise manner. For getting permission for further construction, the Developer would be

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required to deposit 2 years advance rent and postdated cheques for the third year,

(iv) No new proposals of defaulting developers/ firms, and their partners/directors would be accepted until they deposit transit rent,

(v) Defaulting developers will not be appointed as developers irrespective of the consent of slum dwellers in existing proposals of SRS where an agreement with an existing developer is terminated;

vi) Developers that defaulted in providing PAP/PTC tenements to SRA, their SRS proposals will not be accepted;

vii) The Executive Engineer will ensure that PAP/PTC tenements are earmarked in approved plans at the time of intimation of Approval. The Executive Engineer will also ensure that the agreement for PTC/PAP tenements is registered in favour of SRA before the issue of further commencement certificate of free sale buildings. Executive Engineer will restrict to 25% sale commencement certificate [17(3)(D)(b)(6) of the DCPR 2034] till PAP tenements are duly handed over to SRA.

181. It is stated that pursuant to Circular Nos.210 and 210A, the SRA has recovered substantial pending rents of Rs.12,41,58,88,792/- as per the following table:

Statement of transit rent recovered under Circular No. 210 as of 1 August 2024		
Sr. No.	Ward	Rent Amount Collected From the Developers
1	A	36123300
2	B	0
3	C	0

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4	D	0
5	E	16904535
6	F/S	43343565
7	F/N	125804950
8	G/S	123549759
9	G/N	5570091667
10	L	219205799
11	M/E	45612600
12	M/W	509134537
13	N	1800000
14	S	92198366
15	T	275106098
16	H/E	249017899
17	H/W	744781933
18	K/E	1289259792
19	K/W	1377490512
20	P/S	111393600
21	P/N	537645830
22	R/S	129732419
23	R/C	33780247
24	R/N	874910484
Total		**12,41,58,88,792**

Illegal sale of Project Affected Persons tenements and steps taken to meet the same. -

182. In various slum projects, it was noticed by the SRA that the tenements reserved for rehabilitating Project Affected Persons (PAPs) were not handed over by the developer and unlawfully given away to either slum dwellers or sold as free sale units, or despite being handed over were being unlawfully occupied either by ineligible slum dwellers or third parties who claimed to be purchasers of such tenements.

183. PAP tenements are stated to be vital for creating a pool of housing in Mumbai. These tenements are essential for carrying out infrastructure projects and rehabilitating persons affected by such projects. Hence, to ensure that the

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PAP units are not unlawfully dealt with by the developers, the measures are taken. To prevent the illegal sale of the PAP/PTC tenements by the developers as well as the allotted rehab tenement by eligible slum-dwellers before the lock in period, the following steps were taken:

(i) Developers are required to earmark the PAP/PTC tenements in approved plans, wherever necessary;

(ii) Approved plans are displayed on the SRA website for information to the general public;

(iii) A registered undertaking to be furnished by concerned developers stating that the PAP/PTC tenements will be duly handed over to SRA, and no third-party interest will be created in respect of these tenements,

(iv) Developers are mandated to display hoardings in conspicuous places or at the entrance of the project site mentioning details of PAP/PTC tenements;

(v) Copy of approved plans wherein PAP/PTC tenements are earmarked will be shared with the Maharashtra Real Estate Regulatory Authority (RERA) and the Department of Registration and Stamps (DoRS), requesting them to add it to their record. DoRS will be requested to enter these PAP/PTC tenements in their negative list and not register any agreement with respect to these tenements; and

(vi) In order to prevent the sale of rehab tenements within five years of allotment, the SRA has forwarded the letters to the Inspector General of

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Registration and Controller of Stamps requesting them to insist on the permission of SRA prior to the registration of the agreement.

Eviction of obstructing slum dwellers under Sections 33 and 38 of the Slum Act.

(i) Section 33 of the Slum Act empowers the competent authority to direct eviction of occupants from buildings on being satisfied that the occupants of the building have not vacated despite an order or direction made by the competent authority. Before ordering such eviction, the competent authority must give a hearing opportunity to the occupant. In most cases, two hearing opportunities are granted to the occupant to present their case and after such hearing and an approval from the CEO, the Competent Authority passes an order of eviction. The Competent Authority also has the power to demolish buildings as per Section 38 of the Act.

(ii) The summary of action initiated under Sections 33 and 38 from 1 April 2024 to 11 November 2025 is set out according to which, 205 applications under Section 38 were received and 6423 tenements were ordered to be demolished, out of which 5162 tenements were demolished and demolition of 1261 tenements is stated to be in progress.

(iii) **Staffing the SRA**. - 10 appointments were made as Competent Authority (Deputy Collector) for online Annexure-II, 25 Assistant Commissioners of BMC wards are also the Competent Authority for BMC land and there are separate Competent Authority for MHADA land. 3 Deputy Collectors (Special Cell) were appointed to initiate action under sections 33 and

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38 of the Slum Act conducting hearings under section 13(2) and 30% Permanent Staff has been appointed as per Government Resolution dated 11 July 2024. Increase in the staff is done to cope with the large number of applications/proposals which are revised by the SRA at various stages.

184. The following documents in regard to the staffing pattern has been placed on record:-

SLUM REHABILITATION AUTHORITY BRIHANMUMBAI
Organisational Structure

SR. NO	Designation	Count	Department
1	**Chief Executive Officer** (Senior, Indian Administrative Service Officer in the rank of Secretary) Slum Rehabilitation Authority, Brihanmumbai	1	(Senior, Indian Administrative Service Officer) Housing Department, State of Maharashtra

I. Officers/Employees working in Admin Department -

The Slum Rehabilitation Authority, Brihanmumbai, is responsible for supervising the functioning of various departments and maintaining overall administrative control and keeping an eye on financial matters.

Sr. No.	Designation	Count	Department
1	Secretary (Additional Collector Cadre) Slum Rehabilitation Authority, Brihanmumbai	1	Administration and Establishment
2	Administrative Officer	1	
3	Asst. Administrative Officer	1	

II. Officers/Employees working in Deputy Collector Cadre (Special Cell)/SRA (Deputation from Revenue and Forest Department) –

III. They issue Legal Heir certificate and carry out procedure under Section 33(B), Section 33/38

SR. No	Designation	Count	Area of Jurisdiction
1	Deputy Collector Cadre Group-A (Special Cell-1) SRA	1	Mumbai city
	Tahsildar - Group-A	1	
	Naib Tahsildar - Group-B	1	
2	Deputy Collector Cadre Group-A (Special Cell-2) SRA	1	Mumbai Western Suburbs

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	Tahsildar - Group-A	1	
	Naib Tahsildar - Group-B	1	
3	Deputy Collector Cadre Group-A (Special Cell-3) SRA	1	Mumbai Eastern Suburbs
	Tahsildar - Group-A	1	
	Naib Tahsildar - Group-B	1	

IV. *Officers/Employees working in Competent Authority 1 to 10/SRA (Deputation from Revenue and Forest Department) -*

V. *Competent Authority issues Annexure-II and thereby decide eligibility for Slum Dwellers*

SR. NO	Designation	Count	Area of Jurisdiction
1	Competent Authority 1 (Deputy Collector Cadre) Group-A	1	Mumbai city
	Tahsildar - Group-A	1	
	Naib Tahsildar - Group-B	1	
2	Competent Authority 2 (Deputy Collector Cadre) Group-A	1	Bandra
	Tahsildar - Group-A	1	
	Naib Tahsildar - Group-B	1	
3	Competent Authority 3 (Deputy Collector Cadre) Group-A	1	Andheri
	Tahsildar - Group-A	1	
	Naib Tahsildar - Group-B	1	
4	Competent Authority 4 (Deputy Collector Cadre) Group-A	1	Oshiwara
	Tahsildar - Group-A	1	
	Naib Tahsildar - Group-B	1	
5	Competent Authority 5 (Deputy Collector Cadre) Group-A	1	Malad
	Tahsildar - Group-A	1	
	Naib Tahsildar - Group-B	1	
6	Competent Authority 6 (Deputy Collector Cadre) Group-A	1	Goregaon
	Tahsildar - Group-A	1	
	Naib Tahsildar - Group-B	1	
7	Competent Authority 7 (Deputy Collector Cadre) Group-A	1	Borivali
	Tahsildar - Group-A	1	
	Naib Tahsildar - Group-B	1	
8	Competent Authority 8 (Deputy Collector Cadre) Group-A	1	Ghatkopar
	Tahsildar - Group-A	1	
	Naib Tahsildar - Group-B	1	
9	Competent Authority 9 (Deputy Collector Cadre) Group-A	1	Kurla
	Tahsildar - Group-A	1	

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	Naib Tahsildar - Group-B	1	
10	Competent Authority 10 (Deputy Collector Cadre) Group-A	1	Chembur
	Tahsildar - Group-A	1	
	Naib Tahsildar - Group-B	1	

VI. Officers/Employees working in Biometric cell

VII. Biometric Survey work is carried out by visiting houses every slum dweller in the slums of Greater Mumbai through external survey agencies appointed by the SRA

S.No	Designation	Count	Area of Jurisdiction
1	Chief Co-ordinating Officer (Biometric cell)	1	Brihanmumbai
2	Naib Tahsildar	1	

VIII. *Officers/Employees working in Estate Department*

1. Distributing PAP flats to newly eligible slum dwellers as per the prevailing norms of the government after the scheme is completed.
2. Taking possession of PAP/PTC flats available in the scheme.

Sr. No	Designation	Count	PAP tenaments
1	Estate Manager	1	
2	Sub Engineer	1	1) Distributing PAP flats to newly eligible slum dwellers as per the prevailing norms of the government after the scheme is completed. 2) Taking possession of PAP/PTC flats available in the scheme.

IX. Officers/Employees working in Engineering Department -

Engineering department deals with work of declaration of slums u/s. 3(C) of Slum Act, accepting Slum Rehabilitation schemes as per SRA circular no.144, giving approvals such as Letter of Intent (LOI), Intimation of Approval (IOA), Commencement Certificate (CC), Occupation Certificate to the Slum Rehabilitation Projects.

S.No	Designation	Number	Ward
1	Deputy Chief Engineer Group-A	2	1) Mumbai City, Western Suburbs 2) Eastern Suburbs
2	Executive Engineer Group-A	6	1) G/S, M/E, F/S, A,B,C,D,E,F/N,R/N, H/E,G/N,L,R/S
			2) H/W, K/W

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			3) K/E, M/W
			4) N,S,T
			5) DHARAVI
			6) R/C, P/N, PS
3	Assistant Engineer Group-B	17	1) A, B,C,D,E,G/N DHARAVI
			2) K/E(s)
			3) F/N
			4) H/E
			5) S
			6) K/W
			7) P/N(w), PS
			8) R/N
			09) R/C
			10) L
			11) M/W
			12) N
			13) R/S
			14) P/N(e)
			15) M/E,F/S
			16) K/E(N)
			17) H/W
4	Sub Engineer Group-C	21	1) A, B, K/E(S)
			2) S(W)
			3) R/S
			4) K/W(S)
			5) F/N, F/S
			6) C
			7) G/N, DHARAVI, D,E
			8) H/E, H/W(N)
			9) K/W
			10) T(E), S(E), N
			11) P/N(W)
			12) P/N(E)
			13) K/E(N)
			14) R/N, G/S
			15) R/C
			16) L, P/S
			17) K/W(N)
			18) T(W)
			19) H/W(S)
			20) M/W, ANNABHAU SATHE GHATKOPAR
			21) M/E, Ramabai Ambedkar Ghatkopar

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X. Officers/Employees working in (Deputation) Co-operative Department -

The proceedings under the Co-operative act are being carried out as per the provisions of the Maharashtra Slum (Improvement, Clearance and Redevelopment) Act, 1971 and the Maharashtra Co-operative Societies Act, 1960 and Rules, 1961.

SR. NO	Designation	Count	Ward
1	Assistant Registrar Group-B	2	1) Mumbai City 2) Eastern Suburbs, Western Suburbs
2	Co-operative Officer Category 1 Group-C	1	Eastern Suburbs, Western Suburbs
3	Co-operative Officer Grade 2 Group-C	3	Eastern Suburbs, Western Suburbs, Mumbai City

Officers/Employees working in Land Records Department
They work as per the SRA Circular No. 144 and 144A

Sr. No	Designation	Number	Area
1	Deputy Director Land Records Group-A	1	Brihanmumbai
2	Conservation Surveyor Group-C	2	Brihanmumbai

Officers/Employees working in Town Planning Department /SRA
To give Sectorial Planning remarks regarding proposals received under circular no. 144 and 144 A. To give sectorial planning remarks regarding proposals received under section 14(1). To Process proposals received under section 37(1B).

Sr. No	Designation	Number	Area
1	Assistant Town Planner Group-A	2	Brihanmumbai
2	Assistant Draftsman	1	Brihanmumbai

Officers/Employees working in Finance Department
They issue Annexure-3.

To take action by the Authority for the payment of leave pay and pension contributions of the officers/employees on deputation of the Slum Rehabilitation Authority, Brihanmumbai. Also, the work of verifying the calculation of the amount deposited with the Authority and accepting the amount and maintaining all relevant records of the deposit is done.

SR. NO	Designation	Number
1	Finance Controller Group-A (Joint Director)	1
2	Accounts Officer Group-A	2
3	Assistant Accounts Officer Group-B	2
4	Deputy Accountant Group-C	1

Officers/Employees working in Slum Rehabilitation Authority, Brihanmumbai office
Contractual Retired staff

S.No	Designation	Number
1	Officer on Special Duty (Retired ACP)	1

Officers/Employees working in Legal Department
They are Contractual Staff-Supervising the work of the legal Department, attending hearings

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and meetings before the Hon'ble Chief Executive officer and performing all other duties assigned by the Hon'ble Chief Executive and secretary.		
S. No	Designation	Number
1	Chief Legal Advisor (Retired Judge Family court)	1
2	Deputy Legal Advisor	1
3	Assistant Legal Advisor	1
4	Legal Assistant	5
Officers/Employees working in Apex Grievance Redressal Committee They take action on appeals filed before AGRC under Section 35 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.		
S. No	Designation	Number
1	Chief Legal Advisor	2
2	Assistant Legal Advisor	2
3	Legal Assistant	3
Officers/Employees working in Quality Control Cell Contractual (Retired Government / Semi-Government employees) They monitor construction quality of SRA rehab Buildings.		
S.No	Designation	Number
1	Deputy Chief Engineer Group-A	1
2	Executive Engineer Group-A	1
3	Assistant Engineer Group-B	1
4	Sub Engineer Group-C	1
Officers/Employees are contractual staff working in IT cell They are The Information Technology Department of the Slum Rehabilitation Authority is instrumental in driving digital transformation across the organization. It is responsible for implementing technology driven solutions that enhance operational efficiency, ensure data integrity and provide key functions.		
S. No	Designation	Number
1	Chief Information and Technology Officer (Retired staff)	1
2	Information and Technology Officer	1
3	Asst. Information and Technology Officer	2

Steps taken to create a pool of housing.

185. **Creation of PAPs from slum projects**. - In all the slum schemes which are being constructed as per Reg. 33 (10) (3.12) (C) of the DCPR-2034, the number of rehabilitation tenements to be constructed are required to be as per the Draft Annexure II. This includes the ineligible slum dwellers as well. On final

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determination of eligibility, in case the total tenements constructed are more than the eligible slum dwellers, the balance tenements are used for housing non-protected occupiers and PAPs. These PAPs which are a part of each slum scheme are constructed by the developer and are to be handed over to the SRA. The PAPs then, as per requirement, may be handed to other public authorities or retained by the SRA.

186. The details of number of PAP tenements received by the SRA and allotted to PAP between November 2017 to 14 July 2024 (period of about 7 years) are as follows:

Sr. No.	PAP tenement handed over between November 2017 to 10/11/2025	Number of PAP tenements
1	Received PAP	27742
2	Allotted PAP	24583
	(a) MCGM	2563
	(b) MMRDA	20190
	(c) Deputy Collector	77
	(d) SPPL / MMRCL	0
	(e) PWD	169
	(f) Leave & License	266
	(g) Allotment by SRA	1318
3	Balance	3159

(ii) **Provisions of DCPR for creation of PAP and PTC tenements**.- Regulation 33 (10) (3.12) (C) contemplates creation of PAPs in each Slum Scheme. Regulation 33 (11) of the DCPR 2034 stipulates creation of Permanent Transit Camps (PTCs) for the SRA. As per 33 (11), the scheme is specifically approved for constructing transit camps which may be used by the SRA for housing slum dwellers from other schemes. These provisions are enacted for 'creating a pool of housing' which may facilitate the vacating of public and private lands.

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(iii) **Bhonsale Committee**. - In the proceedings of Writ Petition (L) No. 8970 of 2023 this Court passed an order on 3 November 2023 observing that there is no policy in respect of PAP tenements and the allocation of such tenements. Accordingly, this Court suggested formation of a Special Task Force for accessing the situation of PAP and various policies in force and also make recommendations to the Government in this regard.

187. Pursuant to the said order of this Court, a Government Resolution dated 22 November 2023 was issued forming a task force headed by Justice Bhosale (Rtd.) to analyse the prevailing policy pertaining to generation, recovery and sharing of the PAP tenements by various planning authorities such as MCGM, MMRDA, SRA etc.

188. The task force held meetings on various occasions and has prepared its Report dated 15 January 2024 assessing the existing policies in respect of generating PAP tenements and giving its recommendations regarding the preferential allocation of PAP tenements. The committee made several recommendations such as formation of Public Project Implementation Authority, whose purpose would be to take note of all ongoing public projects and check the number of persons being displaced by execution of a public project. The committee recommended preparation of a database of all such persons and also a database of PAP tenements available and then allot the PAPs accordingly.

189. The recommendations of the Committee were considered by the State Government and a Housing Policy was prepared accordingly.

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Housing Policy (2024).-

190. Government Resolution dated 19 August 2024 covering the PAP policy was notified. Under the housing policy, the following obligations are cast on the different authorities:-

(i) The BMC/SRA and MMRDA must devise an action plan to create sufficient housing units in the next 15 years. In cases, where PAP need to be urgently accommodated, they must provide the tenements in 3 to 5 years;

(ii) Excess tenements generated by MHADA and BMC under Regulations 33(7) and 33(9) of the DCPR 2034 must be utilised for PAP tenement allotments;

(iii) CEO, SRA must suggest the MMRDA and BMC to adopt schemes under Regulations 33(10), and 33(10) (3.11) of the DCPR 2034. This would enable the MMRDA and BMC to purchase tenements in bulk from the free sale components under such schemes;

(iv) The Urban Development Department is required to coordinate with concerned departments to make government land and salt pan lands of the Central Government available for the construction of PAP tenements;

(v) Additional incentives in built-up area would be available to developers building PAP tenements.

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(vi) In lieu of collecting premium from builders under Regulation 33 (10), the SRA may obtain PAP tenements from developers;

(vii) Process for distribution of PAP flats;

(viii) Consideration to be paid by the BMC/MMRDA to acquire flats from the SRA;

Acquisition of Land as per the scheme of Section 14 as amended under Chapter I-A.

191. **Development of slum on private lands by owners of such lands**:

(i) The owners of private lands which are proliferated with slums, and which are declared in accordance with law to be slums, can themselves redevelop these lands in accordance with the provisions of the Slum Act as also the circulars issued by the SRA in that regard. Circular 144A pertains to the manner of submission of schemes by owners of the land.

(ii) In order to expedite the submission of the schemes, the owners are exempted from furnishing consent of 51% of the slum dwellers at the time of submission of the schemes. The requirement of furnishing consent is to be complied with before the issuance of the LOI. This measure is introduced in order to expedite the submission of schemes by the owners.

(iii) Under Section 13 (1) of the Slum Act, a proposal is required to be presented by the owners within 120 days of issuance of a notice by the CEO, SRA. The provision has been interpreted by this Court in the case of **Indian Cork Mills Private Limited** (supra) and **Bishop John Rodrigues** (supra).

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(iv) These decisions have been affirmed by the Supreme Court in the cases of Tarabai Nagar Co-Op. Hsg. Society (Proposed) (supra) and Saldhana Real Estate Limited vs. Bishop John Rodrigues (supra). The Supreme Court has held that a notice of 120 days is required to be given specifically to the owner calling upon the owner to submit a slum scheme for redeveloping the land. In the case of Nagar Co-Op. Hsg. Society (Proposed)(supra), it was held that the owners have a preferential right to redevelop the land and the power to acquire under Section 14 cannot be relied on till such preferential right has been exercised and/or exhausted.

(v) The right of the owners to develop the land is given primacy. Sections 13 and 14 were interpreted in a manner which safeguards the ownership rights of individuals whose lands were proliferated by slums and it is only after the opportunity of redevelopment is granted and the owner fails to come forward, is the process of acquisition resorted to.

Circumstances in which the power of acquisition is exercised. -

192. The power of acquisition is exercised only in cases of total inaction on the part of the owners and only after the prescribed procedure for issuance of notice has been duly followed and no scheme has been submitted. Accordingly, the State Government, in exercise of its powers under Section 14 of the Slum Act, acquires the land by issuing a notification and publishing the same in the Official Gazette.

193. Once the land is vested in the State of Maharashtra, the land is thereafter handed over to the SRA, either by appointing an agency or by allotment to a co-

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operative housing society of the slum dwellers.

Calculation of quantum of compensation :-

194. The quantum of compensation is determined in accordance with Section 17 to be paid to the owner. Where there is a consensus, the compensation is fixed by agreement between the owners of the land and the State Government, and shall be paid accordingly.

Challenge to the constitutional validity of Sections 14 and 17:-

195. The vires of Sections 14 and 17 were challenged before this Court in the case of **Sara Harry D'Mello v. State of Maharashtra** (supra). Rejecting the challenge, this Court reiterated that the right to property is no longer a fundamental right. Further, relying on a plethora of decisions, the Court observed that the method of computation cannot be challenged in Courts. It was observed that in case of slum lands, these lands are entirely encroached by slum dwellers and it is in this context that the compensation payable can be calculated.

Grievance and Apex Grievance Redressal Committees. -

196. Following the orders passed by this Court in **Tulsiwadi Navnirman Co.Op. Housing Society** in the year 2007, the State Government to constitute a High Power Committee (HPC) which would deal with the grievances of slum dwellers, developers and all aggrieved parties. In the year 2017, the Government of Maharashtra constituted the Apex Grievance Redressal Committee and Grievance Redressal Committees. In the year 2023, necessary amendments were made to the Slum Act to introduce the Apex Grievance Redressal Committee and

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Grievance Redressal Committees. (Sections 34A and 34B).

197. The powers of the Apex Grievance Redressal Committee are as follows:

(i) To hear and dispose of the appeals against the order of CEO/SRA or any officer to whom such powers are delegated;

(ii) To hear and dispose of the appeals against declaration of Slum Rehabilitation areas under Section 3(C) of the Slum Act;

(iii) To hear and dispose of the appeals against clearance orders under section 3(D) of the Slum Act;

(iv) To hear and dispose of the appeals against orders under section 13 of the Slum Act;

(v) To hear and dispose of the appeals against orders under section 33;

(vi) To hear and dispose of the appeals against orders under section 38;

(vii) To hear and dispose of the appeals against orders under section 3(E);

(viii) To hear and dispose of challenges pertaining to LOI, approvals, any order passed by the CEO, SRA or their subordinate officers, rent-related issues and any other grievances.

198. It is stated that the formation and constitution of the AGRC was in consonance with the directions of the Court in the case of **Tulsiwadi Navnirman Coop. Housing Society** (supra). The said constitution was provided taking into

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account the fact that the members of the AGRC are people who are aware of the working of the slum laws and also the ground realities. The redevelopment of slums being done for housing of slum dwellers and also to create a pool of housing, the Additional Chief Secretary Housing is made the Chairman of the AGRC. The other members of the AGRC are also high ranking officers who are familiar with planning laws and also the procedures and ground realities of slum rehabilitation. The nature of the proceedings before the AGRC is quasi -judicial and hence, the same is not intended to be a judicial tribunal.

Tenement density and the facilities being provided in slum buildings:

199. It is stated that accommodation in multistorey towers is a reality in Mumbai. Due to the acute lack of space, housing in Mumbai is almost everywhere in the form of tall towers, whether for private residences or public housing schemes. Slum rehabilitation schemes are no exception to this pattern. Further it is stated that an endeavour is made to provide better housing conditions, and all necessary steps are taken to ensure that adequate facilities and amenities are made available in the rehabilitation buildings. Under Regulation 33 (10) (8), facilities such as a Balwadi, Welfare Hall, Aanganwadi, Health Centre, Community Hall, Gymnasium, Skill Development Centre, Women Entrepreneurship Centre, Yuva Kendra, Society Office and religious structures may be provided in the rehabilitation component. Any two of the amenities, apart from the Balwadi and Welfare Hall, may be provided in a scheme.

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Utilization of FSI. -

200. FSI in slum rehabilitation schemes is provided as per Regulation 33 (10) (3.2) of DCPR 2034. Under DCR 1991, there was a cap on the permissible FSI that could be utilized, which resulted in planning constraints. Under DCPR 2034, the permissible FSI is calculated based on the area required to rehabilitate all the slum dwellers. The free sale FSI is generated as per the Incentive built up area table.

201. A minimum 650 tenements of 300 sq. ft. aggregating to approximately 2100 sq. mts. has to be constructed on a One Hectare plot of land. Depending on the size of the plot, the said figure is proportionately increased or decreased. The free sale component is determined as per the Chart as set out in DCPR 33 (10) (3.2), depending on the area of construction of the rehabilitation component. As per the said Chart, the free sale component ranges between 0.8 to 1.35 times the area of the rehabilitation component depending on the size and location of the plot of land. If the plot of land is an area where the cost of land is high, the free sale component has a lesser percentage than the area where the price of land is lower. If the number of slum dwellers is less, then the balance area of the rehabilitation component has to be made available as PAPs in order to avail of the incentive (3.12 (C) (proviso) of DCPR 33(10).

Corpus amount: -

202. The corpus amount was originally fixed at Rs. 40,000/- per tenement. It

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was subsequently found that this amount was inadequate for the maintenance of the building. Accordingly, the corpus amount was revised. As per the Notification dated 22 September 2025, the corpus amount is now calculated based on the height of the rehabilitation building. For buildings up to 70 metres, the corpus amount is Rs. 1,00,000 per tenement. For buildings above 70 metres and up to 120 metres, the corpus amount is Rs. 2,00,000 per tenement. For buildings above 120 metres, the corpus amount is Rs. 3,00,000 per tenement only.

Defect Liability period.-

203. As per Circular 108, a Defect Liability Period of 3 years was specified for maintenance of the building after occupation. It was subsequently observed that the said period of three years was insufficient. Accordingly, the SRA vide Circular No. 216 dated 21 February 2024, increased the Defect Liability Period to ten years. A condition to that effect has been incorporated in the LOI, wherein the Defect Liability Period is specified.

204. Also at the time of issuance of the LOI, a bank guarantee of 2% of the construction cost is taken from the developer. This bank guarantee is released only after the expiry of the defect liability period of 10 years. Such circular has been implemented by the SRA and on receipt of such application for any defects which arise in the construction after occupation, the SRA calls upon the developer to remedy the same.

Providing Open Spaces :-

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205. Minimum requirement of space between buildings as per DCR is maintained. At the time of approval of plans, NOC from Fire Department is required to be obtained by the developer. Also before issuing OC, the NOC of the Fire Department has to be obtained. Therefore the allegation of movement of fire-brigade are misplaced. Such issues are duly taken into account in the DCR while providing for the distance between the buildings.

206. As per the provisions of 33 (10), the minimum layout open space requirement is 8%. Hence, when the plots are subdivided for free sale and rehabilitation buildings, the land is divided on the basis of the FSI consumed for the said land and the area which is sufficient to sustain such FSI. Depending on the size of the plot, the open spaces are accordingly divided.

"Response to the suggestions note on behalf of the Amicus dated 28th November 2025

I. Declaration of slums and rights of landowners.

1. Policy of housing of SRA.

1.1. Presently, the policy is as under:

i. Premises are given on ownership basis free of cost to eligible slum dwellers who are occupying tenements in slums prior to 2000.

ii. Allotment of tenements on ownership basis to occupiers in slums who are occupying tenements in slums from the years 2000 to 2011 on payment of Rs. 2,50,000/-.

iii. Ineligible slum dwellers and slum dwellers who have been

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occupying the tenements after 2011 are not entitled to any tenement and are evicted.

2. The grant of premises on ownership basis to slum dwellers.

2.1. The grant of premises on ownership basis to occupants is a policy decision of the Government of Maharashtra as incorporated in the legislative scheme, which has been in force in the State of Maharashtra right since inception. The same is balancing the right to housing which is treated as a part of right to life under Article 21 of the Constitution of India of slum dwellers, and the right of the society to remain free from squalid and insanitary conditions and the danger posed by slums.

2.2. The statutory audit of the functioning of the Slum Act does not envisage the reassessment of the entire legislative scheme and the policy of the Government. The present scope of the matter does not envisage considering the validity of the existing laws or to disturb the entire legislative policy but rather to consider how the legislative policy as incorporated in the statute can be more effectively implemented.

3. Private lands and protecting landowner rights.

3.1. The SRA in Note II dated 12th November 2025 in Chapter XIV (pg. 85) sets out the entire process of acquisition which is envisaged under the Slum Act. Further, the SRA has set out in the

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said Chapter the process being followed pursuant to the decisions rendered by the Hon'ble Supreme Court. The Learned Amici in the Suggestion note have placed reliance on the earlier decisions of the Hon'ble Bombay High Court in the case of *Bishop Rodrigues, Anil Gildas Shah* and *Indian Cork Mills.* These decisions have been extensively considered by the Supreme Court in the cases of *Tarabai Nagar Co-Op. Hsg. Society (Proposed)* (supra) and *Saldhana Real Estate Limited vs. Bishop John Rodrigues* (supra)(see Note II, pg. 85) Taking into account these decisions, the SRA in its note has set out the procedure followed. The entire process of notice under Section 13(1) to the owner giving the owner an opportunity to develop the property on which there are slums is now governed by the aforesaid decisions of the Hon'ble Supreme Court. The procedure set out by the Supreme Court is now to be strictly followed by the SRA and the State Government. (Please refer to Chapter XIV, Note II, pg. 85 submitted by the Advocate General)

3.2. As regards "Title Disputes" (Point 10), SRA issues notice to the owners whose names are mentioned in the property card and does not recognize the ownership claims of a person whose name is not in the property card. Such claims are left to be adjudicated in appropriate forum.

3.3. As regards "Time-Bound Implementation" (Point 12), if the owner presents the scheme and thereafter does not carry out

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development effectively, the power vested under Section 13 can always be exercised by the SRA as in any other scheme. The power under Section 13 is exercised suo-moto by the SRA.

4. Government owned lands.

4.1. The SRA in Chapter VI – Note II (pg. 49) has extensively set out the scientific procedure which is presently being followed to identify all lands on which there are encroachments. This procedure will ensure that, in future, a comprehensive data of all slums and slum dwellers is readily available and all slums are identified, be it on public or private lands.

4.2. As regards "accountability and prevention of further encroachment" (Point 13), in para 6.3.1.5 (Note II, pg. 50) SRA has set out that steps are also being taken to develop an application to track encroachments. In case of any fresh encroachments, such application will raise an encroachment trigger and notify the authorities of such encroachment. This is to try and ensure that no further encroachment takes place. Once the entire process set out in Chapter VI is completed, the extent of encroachments will stand crystallized.

4.3. As regards "No veto power for occupants" (Point 14), as per Regulation 33(10) (1.15) of the DCPR, no consent of the hutment dwellers is required for slum rehabilitation projects which are being

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undertaken by the State Government / Public Authority / Government Company as defined under Section 617 of the Companies Act 1956 and companies owned and controlled by the State Government.

4.4. As regards "Transparent Tendering" (Point 15) and "Best deal for State" (Point 17), whenever public – private partnership is being resorted to, the Government is adopting a procedure of inviting tender as has been done in some of the cases. The SRA in Note II, para 8.3 (p. 61), para 9.3 (p. 67) and para 9.4 (p. 68) has set out various endeavors which are undertaken by the SRA and the State to implement slum schemes across Mumbai.

4.5. As regards "community housing stock" (Point 16) and "community land reserve on public land" (Point 18), the SRA in Chapter XIII (pg. 81) set out the steps taken by the government to create a pool of housing. To create this pool of housing various provisions in the DCPR have been enacted. Further the State of Maharashtra has notified the Housing Policy dated 19th August 2024 which seeks to generate public housing units. Various steps have also been taken which are highlighted in the note on behalf of the SRA.

II. Delays and automatic termination provisions.

5. Time bound completion of slum schemes.

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5.1. As regards "Mandatory Time-Bound Completion" (Point 19) and "Automatic Application of Section 13(2)" (Point 20), steps are being taken for monitoring the progress of the work in a stage-wise manner. The suggestions regarding the Letter of Intent and Agreements contemplating timely stage-wise completion of all schemes is being actively considered by the SRA. These are the suggestions which are well taken and will be actively considered by the SRA.

5.2. As regards automatic application of Section 13(2), if timelines are provided by the developer as is being considered by the SRA, regular progress reports can also be required to be submitted by the developer so as to monitor the progress as per the timeline furnished. In the event of default in compliance with the timelines, SRA can initiate proceedings to make the developer accountable, including, if required, initiation of proceedings under Section 13.

III. Density and apportionment.

6. Maximum tenement density.

6.1. Considering the complex nature of the slum rehabilitation scheme, applying the provisions regarding the density of tenements as provided elsewhere in the DCPR may not be practicable for slum rehabilitation. A slum rehabilitation scheme has various complexities including the size and shape of land, number of

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occupants etc. However, adequate safeguards are provided as set out hereunder which ensures the maximum construction that can take place in a slum rehabilitation scheme.

6.2. As regards 'Maximum Tenement Density' (Point 21), the provision of inserting the maximum construction in slum rehabilitation schemes is not practicable considering that it may not be possible to have an uniform maximum tenement density applicable to all slum projects.

6.3. However, appropriate safeguards are provided in the DCPR regarding the FSI that can be utilized in a slum project. There is a permissible FSI set out under DCPR 33 (10) (3.8). DCPR 33 (10) (3.2) ensures that the utilization of FSI is commensurate with the area of the land, the location of the land and the area required to rehabilitate the slum dwellers. It effectively ensures that there is a maximum density in a slum rehabilitation project. Regulation 33 (10) (3.2) apart from providing maximum FSI permissible in a slum project also sets out the ratio in which FSI will be made available for free sale in a slum project subject to the ceiling of the maximum FSI. This ensures the balancing of the tenement density. A slum rehabilitation project poses unique and different challenges which are sought to be answered by the Development Control Regulations which is a delegated legislation prepared by experts following the detailed procedure under the MRTP Act. Disturbing a part of the

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said DCR which deals with varied situations may render the entire scheme and regulation unviable. (Please see Chapter XVI, para 16.2, pg. 97)

7. Building safety standards and fire protection.

7.1. As regards 'No relaxations to the minimum distance of 6m between two rehab buildings under Regulation 33(10)(6.8) should be permitted' (Point 22(a)), at every stage, the clearance from the Fire Department is obtained and all safeguards required from the fire perspective are taken. As regards DCR 33(10) (6.8), it provides that a minimum distance of 6 meters is maintained between two buildings. The power of relaxation is exercised considering unique requirements of each slum project and the constraints if any in the project. Despite relaxations, adequate distance is maintained between the buildings to ensure the movement including of fire tenders without which the fire clearance would not be granted.

7.2. As regards 'Lighting and ventilation requirements provided under Regulation 40 of the DCPR should be made mandatory to slum rehabilitation projects' (Point 22(c)), in given cases strict adherence with DCPR 40 may not be practical considering the nature of the slum project. As regards Point 22(d), the open space is distributed between the rehabilitation and the free sale components on the basis of FSI consumed in the rehabilitation component and

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the free sale. The manner in which open space is provided is already explained by the SRA. A slum project is a distinct and different kind of housing project which is affected by high densities and less spaces.

8. Apportionment of land between rehabilitation and free sale components.

8.1. As regards 'Apportionment of Land between Rehab and Sale Components' (Point 23), the SRA has set out the manner in which the FSI and the land is apportioned. Regulation 33 (10) (3.2) links the rehabilitation and free sale FSI. It is not a case that there is unlimited FSI utilized for free sale however, the rehabilitation FSI is capped. Both the components are proportionate and the FSI is calculated based on where the slum scheme is situated. Further, regulation 33 (10) (8) mandates that amenities are required to be provided in a rehabilitation building.

9. Developer's entitlement conditional on compliance and protection of third-party purchasers.

9.1. As regards 'Developer's Entitlement – Conditional on Compliance" (Point 24), Regulation 33 (10) (2.6) stipulates that the FSI for free-sale is given proportionately and in such manner as directed by the SRA. The permission for free sale building is dependent on the progress in construction of rehabilitation. The

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Developer is entitled to the free-sale only if the rehabilitation and PAP component is completed and duly handed over to the SRA.

9.2. As regards 'Adequate checks and balances to protect bona fide third party purchasers' (Point 25), the slum scheme proposed by the developer since inception is focused on the construction of rehabilitation building. The entitlement of free sale is dependent on the extent of rehabilitation area constructed.

9.3. Even if the developer sells any premises, no right is acquired by the purchaser in the said flat or the scheme in the event of termination of the mandate of the developer.

IV. Identification of slum dwellers

10. Cut-off date freeze.

10.1. As regards 'Cut-Off Date Freeze' (point 26), Section 3Y of the Slum Act freezes the eligibility to persons having photo passes or documents showing existence of dwelling structure prior 1st January 2000. Section 3X(c) stipulates that only such persons who hold photo passes are protected occupiers.

10.2. In paragraph 26(b), it has been suggested that rehabilitation should be permitted on payment of costs for non-protected occupiers. This suggestion stipulates providing tenements to all slum dwellers irrespective of the date of occupation of a tenement

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on payment. This in fact would defeat the entire scheme of the law and may further encourage encroachment. As per Section 3B (5) (f), non-protected occupiers having dwelling structures from 2000 to 2011 are the only ones entitled to receive tenements on payment of costs. As regard other persons, there are various schemes such as Pradhan Mantri Awas Yojana (PMAY) which may be availed by such persons if so entitled under the scheme.

11. **Time bound and streamlined process for Annexure II, satellite survey, centralized master list and biometrics.**

11.1. The SRA in Note I, Chapter V, para 5.2.2(pg. 33) set out the earlier process of formation of Annexure II. The issues faced by the SRA in this process are set out in paragraph 5.2.4 (pg. 39). Due to the issues faced, the SRA has now adopted a scientific method of Auto Annexure II and Biometrics which will not only lead to a database of all hutments and hutment dwellers but also will have ready Annexure II for schemes as and when they are presented. As regards Points 27, 28, 30 and 31, an entirely new process of Annexure II and surveys is being carried out which is set out by the SRA in Note II, Chapter VI, paragraph 6.3 (pg. 47) and paragraph 6.5 (pg. 53).

12. **Dwelling structure.**

12.1. A "Dwelling House" is defined in Section 3X (a) of the Slum Act. Only ground floor structures are considered as dwelling

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structures. A challenge was made to the policy of the State Government which recognized only ground floor structure as a dwelling house. An assertion was made that even the mezzanine and first floor should be treated as a part of the dwelling structure for the purposes of rehabilitation. This contention was rejected by the Hon'ble Bombay High Court in the case of Pameshkumar Nandlal Sahu v. High Powered Committee & Ors. – WP No. 3075 of 2015 and Gopal Chinmaya Shetty vs. State of Maharashtra – PIL (L) No. 31310 of 2021.

V. Selection of Developers.

13. The Suggestion Note in Points 32 to 35 suggested empanelment of developers based on objective criteria and financial and technical scrutiny of the developers. The SRA in Note II, Chapter VII, paragraph 7.1 (pg. 56) exhaustively set out the new steps have been taken in order to develop a robust panel of developers who are financially sound and have experience in implementing infrastructure projects. The SRA has in paragraph 7.1.2 (pg. 56) set out the process adopted by them for calling upon developers to submit applications for getting empanelled.

14. Further, the SRA has implemented schemes such as amnesty schemes for implementing stalled projects where financial institutions are now being appointed as developers. Furthermore, the SRA in Chapter XVIII, paragraph 8.3 (pg. 61) set out all the steps taken to

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revive / implement stalled projects which are not only limited to calling for tenders, but also involve implementing the projects either itself or through joint venture.

Discussion

Brief Overview

207. Having noted the submissions as made on behalf of the stakeholders as also the learned Amici and learned Advocate General appearing for the Slum Rehabilitation Authority, we now proceed to take a review of the slum legislation for final suggestions to be made. We propose to divide the discussion as under:

(I) Historical Antecedents of the Slum Legislation:

208. The history of the slum legislation prior to the Slum Act[53] can be traced to the legislation enacted by the Parliament, namely, The Slum Areas (Improvement And Clearance) Act, 1956. As seen from the preamble of the said Act, it was enacted to provide for the improvement and clearance of slum areas in certain Union territories and for the protection of tenants in such areas from eviction. The said Act comprised of Seven Chapters, *inter alia,* dealing with the declaration of slum areas (Section 3), the provisions for slum improvement as contained in Chapter III. Provisions on slum clearance and re-development as contained in Chapter IV. Provisions on acquisition of land in Chapter V. Provisions on protection of tenants in slum areas from eviction in Chapter VI, and the miscellaneous provisions in Chapter VII dealing with powers of entry, powers of

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53 Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971

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inspection, breaking into buildings, power of eviction, power of demolition, jurisdiction of the Courts, sanction of competent authority, protection of action taken in good faith, bar of jurisdiction etc.

209. Insofar as the State of Maharashtra is concerned, in the year 1971, the State Legislature enacted the Slum Act to make better provision for the Improvement, Clearance, and Redevelopment of slum areas in the State, as set out in the preamble to the Slum Act. The Act was brought into force on 03 September 1971. The Statement of Objects and Reasons, as notified in the Government Gazette, 1970, Part V, Extra., pp. 252-253, is also required to be noted, which reads thus:-

> "STATEMENT OF OBJECTS AND REASONS
>
> (Maharashtra Slum Areas Improvement, Clearance and Redevelopment Bill, 1970)
>
> The rapid growth of industries and consequent growth of population and over-crowding have created slums in Greater Bombay and other urban areas. The slums are a menace to the safety, health and morals of the inhabitants. The problem of slum improvement and clearance has been engaging the attention of both official and non-official agencies for the past several years, and certain schemes for clearance of slum areas have been and are being executed by the Maharashtra Housing Board and Local Bodies.
>
> 2. At present there are certain provisions regarding improvement and clearance of slum areas in different laws in force in the State, namely the Bombay Municipal Corporation Act, 1888; the Bombay Provincial Municipal Corporations Act, 1949; and the Nagpur Improvement Trust Act, 1936. These provisions are, however, applicable to the areas in which the enactments in question are in force. There is also no uniformity in the provisions in these enactments. Moreover, they are not comprehensive.
>
> 3. It is, therefore, considered necessary to enact comprehensive legislation for the whole State somewhat on the lines of the Slum Areas (Improvement and Clearance) Act, 1956, enacted by Parliament, with suitable modifications to make better provision for the clearance of slum areas in the whole of the State and their redevelopment. This Bill is intended for that purpose.
>
> Notes on Clauses
>
> The important provisions proposed in the Bill are explained in the following notes on clauses:—

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Clause 3.—A provision is made for the appointment of Competent Authorities. It also provides for appointment of bodies corporate as Competent Authorities though the powers and duties will be exercised by their Chief Executives generally.

Clause 4.—This clause empowers the Competent Authority to declare any area, which satisfies certain requirements, as slum area.

Clauses 5 to 7.—These clauses empower the Competent Authority to declare any slum area to be a clearance area, to ask the owner to demolish the buildings and to allow the owner to re-develop the area in accordance with the plans approved by the Competent Authority. The Competent Authority can undertake the work of re-development not only if the owner does not execute it satisfactorily, but also in case the Competent Authority is satisfied that it is necessary to do so in the public interest. Provision has also been made for appeals to the Tribunal against confirmation of the clearance order by the Administrator and the restrictions imposed by the Competent Authority on redevelopment of land.

Clause 8.—The State Government has been empowered to acquire land for redevelopment of clearance area. The land shall vest in the State Government from the date of publication of the notice. This would avoid delay in acquisition of land.

Clause 11.—This provides for payment of compensation for the land acquired under the Act. The compensation is to be paid as may be determined by agreement or equal to sixty times the net average monthly income actually derived from such land during the period of five consecutive years immediately preceding the date of publication of the notice referred to in clause 8.

Clause 15.—Provision has been made for payment of interest on the amount of compensation for the period from the time of taking the possession of land till the payment or depositing of the amount of compensation. The rate of interest is to be fixed by the State Government but it shall not be less than 4 per cent.

Clauses 16 to 20.—These clauses provide for protecting tenants in a slum area from eviction, restoration of possession of premises vacated by tenants for the purpose of re-erection, and the rents to be charged to tenants after re-erection. The re-housed tenant has to pay rent equal to 4 per cent of the cost of re-erection of the building and the cost of land on which the building is re-erected or standard rent, whichever is more. Other tenants have to pay rent according to the general law relating to the control of rents in force in that area, and in the absence of such law, rent determined by an authority as prescribed under rules to be made by the State Government.

Clause 28.—This clause empowers the Competent Authority to remove offensive or dangerous trades from slum areas.

Clause 29.—This clause provides for appeals to the Administrator by any person aggrieved by any notice, order or direction of the Competent Authority except as otherwise expressly provided. The decision of the Administrator on appeal shall be final and shall not be questioned in any court of law. Thus, while giving due opportunity to any aggrieved party to

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get this grievance redressed, this will enable speedy execution of the slum clearance schemes and avoid inordinate delays resulting from lengthy litigations.

Clause 32.—This clause empowers the Competent Authority to demolish at the cost of the owner any building erected or being erected in contravention of the provisions of the Act.

Clause 38.—Reference to the Tribunal has been provided for determining the claim of the Competent Authority regarding expenses incurred by it, if the claim is disputed, and the amount claimed is to be recovered as arrears of land revenue.

Bombay, dated the 7th May 1970.

N. K. Tirpude,
Minister for Housing."

(emphasis supplied)

210. Incidentally, it may also be observed that in the year 1973, another legislation, namely, Maharashtra Slum Improvement Board Act, 1973, was enacted which was granted assent by the President on 26 April 1973. The objects of the State Act, as seen from the preamble, are to the following effect:-

"WHEREAS, several slums have sprung up and continue to exist in the various areas of the State;

AND WHEREAS, despite continued efforts by legal authorities, Housing Boards, Improvement Trusts and other bodies to remove the slums, and to rehouse and resettle the slum dwellers in housing colonies and the like, it has not been possible to keep pace with the necessities of the situation;

AND WHEREAS, existing slums are becoming a source of danger to the health, safety and convenience of the slum dwellers and also to the surrounding areas, and generally a source of nuisance to the public;

AND WHEREAS, until such time as those slums are removed and the persons settled and housed in proper buildings, it is necessary to provide the basic necessities, such as water, sanitary arrangements, light, *etc.*, to the slum dwellers; and for the purpose of more effectively and most speedily providing these amenities, it is now expedient to set up a Slum Improvement Board; and to provide for matters connected with the purposes aforesaid."

(emphasis supplied)

211. An amendment to the Slum Act in the year 1978 by Maharashtra Act No.

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13 of 1978 was incorporated. By such amendment, the preamble of the Act was amended whereby the words "and for protection of occupiers from eviction and distress warrants" came to be incorporated.

II. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971

212. This 1971 legislation was enacted to make better provisions for the improvement and clearance of slum areas in the State and their redevelopment, subsequent to which, vide Amendment Act of 1978 (Maharashtra Act No. 13 of 1978) provisions in regard to protection of occupiers from eviction and distress warrants were incorporated. We may, at the outset, observe that there were 21 substantial amendments to the 1971 Act by the following Amendment Acts:

Sr. No.	Amending Act (Maharashtra)	Date	Key Amendments
1	Mah. 23 of 1973	26-04-1973	• Section 10A was inserted • Section 2(ga) inserted – definition of *"slum area"* introduced • Section 4 amended – declaration of slum areas modified • Section 5 amended – Power of Competent Authority of execution of works of improvement • Section 7 substituted – Expenses of maintenance of works of improvement to be recoverable from occupier • Section 10A was inserted – Power of Competent Authority to entrust improvement and other works • Section 14 amended – Power of State Government to acquire land
2	Mah. 36 of 1973	24-09-1973	• Section 25 amended – Rent of buildings in slum areas
3	Mah. 46 of 1975	18-09-1975	• Section 12 substituted – Clearance order • Section 18 amended – Apportionment of compensation • Sections 44A and 45 substituted – Vacancy and temporary absence of President and other members of

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Sr. No.	Amending Act (Maharashtra)	Date	Key Amendments
			Tribunal; Provisions relating to Tribunal
4	Mah. 20 of 1976	04-05-1976	• Section 2 (ga) amended – Slum area • Section 4A inserted – Certain slum improvement areas deemed to be slum areas • Section5A amended – Improvement works • Section 5C substituted – Power of Competent Authority to require improvement of buildings unfit for human habitation and of areas which are source of danger to public health, etc. • Section 6 amended – Enforcement of notice requiring execution of works of improvement • Section 8 amended – Restriction on buildings, etc., in slum areas
5	Mah. 13 of 1978	06-05-1978	• Long title amended – protection of occupiers from eviction added • Preamble substituted • Maharashtra Ordinances IV & V of 1978 repealed • Heading of Chapter VI substituted – Protection of Occupiers in Slum areas from eviction and distress warrants • Section 22 amended – Proceedings for eviction of occupiers [or for issue of distress warrant] not to be taken without permission of Competent Authority
6	Mah. 23 of 1981	18-08-1981	• Section 47 substituted – Cesser of corresponding laws and powers conferred thereunder temporarily
7	Mah. 28 of 1984	29-09-1984	• Section 2(b-1) inserted – definition of *Collector* • Sections 14 and 15 amended – Power of State Government to acquire land; • Section 17 amended – Basis for determination of compensation
8	Mah. 30 of 1986	23-07-1986	• Section 2(f) amended – slumlord excluded from definition of owner • Section 4 amended – Declaration of slum areas • Section 36 amended – Service of notice, etc.
9	Mah. 2 of 1987	05-02-1987	• Penalty and enforcement provisions amended • Section 22 amended - Proceedings for eviction of occupiers [or for issue of distress warrant] not to be taken without permission of Competent Authority • Section 23 amended – Appeal

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Sr. No.	Amending Act (Maharashtra)	Date	Key Amendments
			• Section 23A inserted- Recovery of Rent, etc., by criminal intimidation prohibited • Second Schedule of the Act deleted
10	Mah. 29 of 1987	07-08-1987	• Section 2(i) substituted – definition of Tribunal modified • Section 4 amended - Declaration of slum areas
11	Mah. 4 of 1996	24-10-1995	• Chapter I-A inserted – Slum Rehabilitation Scheme introduced • Section 2(i)- "Tribunal" replaced with Special Tribunal
12	Mah. 6 of 1997	24-10-1995	• Section 2(ba) inserted – definition of *Chief Executive Officer* • Section 3A(2A) inserted – SRA declared a body corporate • Section 3A(3) substituted – powers and functions of SRA • Section 3D amended – Application of other Chapters of this Act to Slum Rehabilitation Area with modification
13	Mah. 10 of 2002	18-05-2001	• Repeal of Maharashtra Ordinance No. XXVII of 2002 • Section 3 amended – Appointment of Competent Authorities • Chapter I-B inserted – Protected occupiers, their Relocation and Rehabilitation • Section 40 amended – Previous sanction of Competent Authority for prosecution
14	Mah. 1 of 2004	23-10-2003	• Repeal of Maharashtra Ordinance X of 2003 • Chapter I-C inserted – Special provisions for In-Situ Rehabilitation housing schemes for Protected Occupiers in slum areas • Section 46 amended – Power to make rules
15	Mah. 24 of 2005	19-05-2005	• Section 2(i) amended – qualification of Tribunal members reduced from 10 years to 8 years
16	Mah. 11 of 2012	19-06-2012	• Section 2(h-e) inserted – definition of *Slum Rehabilitation Work* • Section 2(a-a) was inserted – definition of *Appellate Authority* • • Section 3C(3) inserted – cessation of SRA area on completion • Section 3D amended - Application of other Chapters of this Act to Slum Rehabilitation Area with modification

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Sr. No.	Amending Act (Maharashtra)	Date	Key Amendments
			• Section 3E amended – Restrictions on transfer of tenements • Section 4 amended – Declaration of slum areas • Section 14 amended – Power of State Government to acquire land • Section 15A inserted – Vesting of land under Slum Rehabilitation Scheme • Section 42 amended – Bar of jurisdiction
17	Mah. 9 of 2014	02-05-2014	• Section 3Y and 3Z amended – Issuance of photo-pass and maintenance of Register; Protection, relocation and rehabilitation of protected occupiers • Section 3Z- 1 amended - Powers of Competent Authority to demolish unauthorized or illegal dwelling structures • Section 3Z-2 amended - Demolition of unauthorized or illegal dwelling structures and penal liability
18	Mah. 38 of 2018	26-04-2018	• Insertion/substitution of definition clauses in Section 2 (approved valuer, building, censused slum, Community economic activity area, developer, eligible slum dwellers, slum area, slum clearance, slumlord, SRA area); Section 3X (dwelling structure) • Section 3B substituted – Slum Rehabilitation Scheme • Sections 3C & 3D substituted – declaration and application of SRA regime • Section 3I substituted – Officers and servants of SRA • Section 15A substituted – Vesting of land under Slum Rehabilitation Scheme • Section 35 substituted - Appeals
19	Mah. 33 of 2023	—	• Section 2(a-1) inserted – Apex Grievance Redressal Committee (retrospective from 08-03-2017) • Section 2(c-c) substituted – Grievance Redressal Committee • Section 3C amended – Declaration of a slum rehabilitation area • Section 3D amended - Application of other Chapters of this Act to Slum Rehabilitation Area with modification • Section 34A inserted – Constitution of Apex Grievance Redressal Committee • Section 34B inserted – Constitution of Grievance Redressal Committee

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Sr. No.	Amending Act (Maharashtra)	Date	Key Amendments
			• Section 35 amended – Appeals • Section 42 amended – Bar of jurisdiction
20	Mah. 15 of 2024	—	• Section 3E amended – Restrictions on transfer of tenements
21	Mah. 42 of 2025	29-08-2025	• Section 3D amended - Application of other Chapters of this Act to Slum Rehabilitation Area with modification • Section 15A amended - Vesting of land under Slum Rehabilitation Scheme • Section 33A substituted – Procedure for allotment of tenements to slum dwellers not willing to join scheme or project • Section 33B inserted – Recovery of rent due from developers

The aforesaid amendments indicate the progressive steps being adopted by the Legislature to achieve the object and intention of the Slum Act.

III. Scheme of the Slum Act

213. Now coming to the scheme of the Slum Act. Section 2 is the exhaustive definition clause dealing with significant definitions and more importantly, the definition of 'building' [Section 2(b)], which includes structures within community economic activity area, which is also separately defined [Section 2(b-2)]. The other vital definitions are – Censused Slum [Section 2(1b)], Developer [Section 2(c-a)], eligible slum dwellers [Section 2(c-b)], Grievance Redressal Committee [Section 2(c-c)], land [Section 2(d)], occupier [Section 2(e)], owner [Section 2(f)], slum area [Section 2(ga)], slum clearance [Section 2(h)], slumlord [Section 2(h-a)], Slum Rehabilitation Area [Section 2(h-b)], Slum Rehabilitation Authority [Section 2(h-c)], Slum Rehabilitation Scheme [Section 2(h-d)], works of improvement [Section 2(j)] etc.

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214. Chapter I-A incorporates provisions from Section 3A to Section 3W, making provisions for implementing the slum rehabilitation scheme as defined under Section 3B. It is under the provisions of this Chapter, that a Slum Rehabilitation Authority with its Chief Executive Officer and members was constituted as provided for under Section 3A. The Chapter makes provision in regard to powers, duties and functions of the Slum Rehabilitation Authority to survey and review existing positions regarding slum areas, to formulate schemes for rehabilitation of slum areas, to get the Slum Rehabilitation Scheme implemented, to do all such other acts and things as are felt necessary for achieving the objects of rehabilitation of slums.

215. Significantly, sub-section (5) thereunder provides the power of the Slum Rehabilitation Authority to appoint Committees consisting of its members and experts to facilitate its working and speedy implementation of the scheme prepared under Section 3B including the general schemes of Slum Rehabilitation for specific areas as contemplated under sub-section (1) of Section 3A.

216. The methodology in regard to implementation of the slum rehabilitation scheme to be notified by the Chief Executive Officer under sub-section (3) of Section 3B has been exhaustively provided in sub-section (5) and sub-section (6). Section 3C is another significant provision providing for 'Declaration of a slum rehabilitation area', which would include community economic activity area. Further provisions of Chapter I-A would indicate that for the purpose of the said Chapter, there are specific sections incorporated. For example, Section 13, which is applicable to slum rehabilitation areas by virtue of Section 3D, providing for

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"Power of Slum Rehabilitation Authority to develop slum rehabilitation area". There is also incorporation of Section 33 in regard to "Power of eviction to be exercised by Chief Executive Officer", Section 38 in regard to "Order of demolition of building in certain areas" and Section 47 "Cesser of corresponding laws". Thus, Section 3D carves out an independent scheme in relation to the application of other Chapters of the Slum Act to a slum rehabilitation area, however, with specific modifications to the provisions as categorically incorporated in Section 3D. Section 3E provides for "Restriction on transfer of tenements".

217. There are provisions on the constitution of officers, servants and membership of the slum rehabilitation authority. A perusal of all these provisions, i.e., Section 3A to Section 3W indicates that the provisions so incorporated is a Code by itself in relation to the slum rehabilitation scheme.

218. Chapter I-B was incorporated by Maharashtra Amendment Act No. 10 of 2002, which is in regard to "Protected Occupiers, their relocation and rehabilitation". Section 3X is the definition clause, which defines "dwelling structure" [Section 3X(a)], "photo-pass" [Section 3X(b)], "protected occupier" [Section 3X(c)]. Section 3Y introduces the scheme whereby the Government or any officer, *inter alia,* authorized by it, after verifying certain documents or records, as may be prescribed, issues a photo-pass for the purpose of the Act in regard to the actual occupier of a dwelling structure in existence on or prior to 1 January, 2000 by Maharashtra 9 of 2014, prior to which original Section 3Y(1) provided for the cut off date to be 1 January, 1995. By the issuance of a photo-

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pass in favour of a slum dweller, he becomes an occupier, i.e., entitlement to benefit under Section 3Z – "Protection, relocation and rehabilitation of protected occupiers". Section 3Z is required to be noted, which reads thus:

> **"3Z. Protection, relocation and rehabilitation of protected occupiers.**
>
> (1) Notwithstanding anything contained in this Act, on and after the commencement of the 1[Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) (Amendment) Act, 2014 (Mah. IX of 2014)], no protected occupier shall, save as provided in sub-section (*2*), be evicted, from his dwelling structure.
>
> (2) When, in the opinion of the State Government, it is necessary in the larger public interest, to evict the protected occupiers from the dwelling structures occupied by them, the State Government may, subject to the condition of relocating and rehabilitating them in accordance with the scheme or schemes prepared by the State Government in this behalf, evict them from such dwelling structures :
>
> Provided that, if any of the protected occupiers does not comply with the terms and conditions of the scheme for relocation and rehabilitation, such occupier shall forfeit the claim for such relocation and rehabilitation and shall become liable for eviction without being relocated and rehabilitated."

219. The other provisions are dealing with powers of the competent authority to demolish unauthorized or illegal dwelling structures (Section 3Z-1) and penal liability (Section 3Z-2).

220. Chapter I-C provides for "Special Provisions for in Situ Rehabilitation Housing Schemes for protected occupiers in slum areas" and was incorporated by Maharashtra Act No. 1 of 2004. The provisions under this Chapter are from Section 3Z-3 to 3Z-7. Section 3Z-3 provides for a definition clause defining "Housing Committee"[Section 3Z-3(a)], "Housing scheme" [Section 3Z-3(b)] and "Scheme area" [Section 3Z-3(c)]. Section 3Z-4 provides for "Constitution of

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Housing Committee". Section 3Z-5 provides for "Development permission". Section 3Z-6 provides for "Provisions of this Chapter not to apply in certain areas", for example, Coastal Regulation Zone, Eco-Sensitive Zones of Ecologically Fragile Area, Hill Stations, Special Tourism Areas, Lands belonging to the Central Government or any entity thereof unless the same is voluntarily offered for the housing scheme. Chapter I-C can be seen to be an endeavour to have housing schemes by undertaking construction/reconstruction of dwelling units or structures in the scheme area for providing basic amenities to the slum dwellers who are protected occupiers as defined in clause (a) of Section 3X and their in *situ* rehabilitation in such scheme area. It accordingly enables the implementation of Chapter I-B.

221. After specific incorporation of all these Chapters, the next Chapter is Chapter II, as originally contained in the legislation, dealing with slum areas. Section 4 provides for Declaration of slum areas by the Competent Authority, where the Competent authority is satisfied that any area is or may be a source of danger to the health, safety or convenience of the public of that area or of its neighbourhood, by reason of the area having inadequate or no basic amenities, or being insanitary, squalid, overcrowded or otherwise; as also in respect of the buildings which are used or intended to be used for human habitation and are in any respect, unfit for human habitation; or for reasons of dilapidation, overcrowding, faulty arrangement and design of such building or *inter alia,* a combination of factors like lack of ventilation, light or sanitation facilities, detrimental to the health, safety or convenience of the public of that area.

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Section 4A was incorporated by Maharashtra Act 20 of 1976 providing that certain slum improvement areas shall be deemed to be slum areas.

222. Chapter III provides for "Slum Improvement", which, *inter alia*, deals with "Power of Competent Authority of execution of works of improvement" (Section 5). Section 5A incorporates the 'Improvement works' consisting of what is provided under clauses (a) to (h). This Chapter also provides for power of Competent Authority to require occupiers to vacate premises (Section 5B). Section 5C provides for "Power of Competent Authority to require improvement of buildings unfit for human habitation and of areas which are a source of danger to public health etc." Other provisions are provided which are necessary to execute such works.

223. Chapter IV provides for 'slum clearance and redevelopment', which contains provisions from Section 11 to Section 13. Section 11 under this Chapter provides for "Power to declare any slum area to be a clearance area". Section 12 provides for "clearance order" to be passed by the competent authority. Section 13 provides for "power of Slum Rehabilitation Authority to develop Slum Rehabilitation Area".

224. Chapter V provides for the "Acquisition of Land". This is a significant chapter, as substantial litigation is generated on acquisition of land encroached upon by slums. Section 14 confers power upon the State Government to acquire land for the purpose of executing any work of improvement or for the redevelopment of any slum area or any structure situated therein. Section 15

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thereunder provides for the “Power of Collector to require person in possession of land to surrender or deliver possession thereof to him, etc.”. Section 15A, which was inserted by the Maharashtra Amendment Act, 2012, provides for the ‘vesting of land under a Slum Rehabilitation Scheme’. The Chapter further contains provisions relating to the basis for determination of compensation, apportionment and payment of compensation, the powers of the Competent Authority in relation to determination of compensation, and payment of interest, as contained in Sections 17 to 21.

225. Chapter VI provides for the “protection of occupiers in slum areas from eviction and distress warrants”. The heading of Chapter VI was substituted by Maharashtra Act No.13 of 1978 for the heading "Protection of Tenants in Slum Areas From Eviction". Under this Chapter, Section 22 stipulates that proceedings for eviction of occupiers or for the issuance of distress warrants shall not be taken without the prior permission of the Competent Authority. Section 23 provides for an appeal by any person aggrieved by an order of the Competent Authority to the Tribunal, and also provides for the finality of the Tribunal’s orders. Section 23A, which was inserted by Maharashtra Amendment Act 2 of 1987, provides for ‘recovery of rent, etc., by criminal intimidation being prohibited’. Further provisions relate to the restoration of possession of premises vacated by a tenant and the regulation of rent of buildings in slum areas, as contained in Sections 24 and 25. Section 26 provides that the Chapter shall not apply to, or in relation to, the eviction under any law of a tenant from any buildings in a slum area belonging to the Government, the Nagpur Improvement

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Trust, or any local authority.

226. Chapter VII makes miscellaneous provisions dealing with a variety of matters, namely, 'powers of entry' (Section 27); 'powers of inspection' (Section 28); 'power to enter land adjoining land where work is in progress' (Section 29); 'breaking into building' (Section 30); 'entry to be made in day time' (Section 31); 'occupier's or owner's consent to be ordinarily obtained' (Section 32); 'power of eviction to be exercised by Chief Executive Officer' (Section 33); and 'procedure for allotment of tenements to slum dwellers not willing to join the scheme or project' (Section 33A and 33B substituted by Maharashtra Amendment Act No.42 of 2025). Another significant provision is the 'power to remove offensive or dangerous trades from slum areas' (Section 34). Section 34A and 34B, which were inserted by Maharashtra Amendment Act, 2023, provide for the Constitution of the Apex Grievance Redressal Committee and the Grievance Redressal Committee, respectively. Section 35 provides for appeals before the Grievance Redressal Committee as also the Apex Grievance Redressal Committee. Provision is also made for service of notice (Section 36). Section 37 provides for 'penalty in regard to non-compliance of notice, order or direction issued or given under the Act, on conviction, providing for imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both. Section 38 provides for 'order of demolition of buildings in certain cases'. Section 39 provides for 'jurisdiction of Courts'. Section 40 provides for 'previous sanction of Competent Authority for prosecution'. Section 41 provides for 'protection of action taken in good faith'.

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Section 42 provides for 'bar of jurisdiction'. Section 43 provides for 'Competent Authority, etc., to be public servants'. Section 44 provides for 'Tribunal to determine claims of Competent Authorities before they are recovered as arrears of land revenue'.

227. Sections 44A and 45 deal with vacancy and temporary absence of the President and other members of the Tribunal and other provisions relating to the Tribunal respectively. Section 46 provides for 'power to make rules'. Section 47 provides for 'cesser of corresponding laws and powers conferred thereunder temporarily' and the making of a declaration under sub-section (1) thereof.

IV Rules framed under the Slums Act

228. Rules have also been framed under the Act, namely, the **Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Protection of Tenants in Slum Areas from Eviction Rules, 1972**, which, *inter alia* make provision for the eviction of an occupier and matters connected therewith. The following rules and regulations are framed under the Act:-

> "1. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Protection of Tenants in Slum Areas from Eviction Rules, 1972
>
> 2. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Tribunal Rules, 1972.
>
> 3. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) (Other Manner of Publication of Notification regarding Restriction on Building in Slum Areas, etc.) Rules, 1971.
>
> 4. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) (Other Manner of Publication of Declaration) Rules, 1971.
>
> 5. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) (Other Manner of Publication of Notification regarding Restriction on Building in Slum Areas, etc.) Rules, 1971.

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6. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Protection of Tenants in slum Areas from Eviction Rules, 1972.

7. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Tribunal Rules, 1972.

8. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) (Clearance areas Order) (publicity Etc.) Rules, 1973.

9. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Tribunal, Regulations, 1974.

10. The President in The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment Tribunal) (Recruitment) Rules, 1999.

11. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) (Grievance Redressal Committees) Rules, 2014.

229. Apart from this, the SRA issues notifications and circulars from time to time with the intent of giving effect to the provisions of the Act and Rules.

V AREAS OF DISPUTES

230. Having noted the various provisions of the Act as they stand in the scheme of the legislation, we note the areas/issues in relation to which disputes legally arise which are as under:-

i. Identification of lands declared as slums, particularly with regard to the declaration of such lands as slums and/or slum rehabilitation areas (Section 3C – Declaration of a slum rehabilitation area),

ii. Disputes over the eligibility of slum-dwellers.

iii. Disputes in regard to the formation of societies by the slum-dwellers,

iv. Disputes on appointment of developers by the societies of slum-dwellers,

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v. Disputes on eligibility of the slum-dwellers for the purpose of permanent alternate accommodation, which depends upon the existence of the structure in the context of the protection granted under different notifications issued by the State Government.

vi. Disputes arising regarding the change of developers by societies for the reasons such as the appointed developer's failure to perform, delays in implementing the slum scheme, inability to undertake or complete the slum scheme, transfer or proposed transfer of the slum scheme to another agency/ developer, and various other related reasons.

vii. Disputes relating to slums situated on certain private lands, where the landowners are not provided an opportunity to develop the slum rehabilitation scheme, and where slum dwellers appoint developers in disregard of the rights of the landowners.

viii. Disputes between rival societies appointed by slum-dwellers (significantly in the case of large slums).

ix. Disputes in regard to the removal of slum-dwellers appointed by the slum society.

x. Disputes relating to compulsory acquisition of land as per the provisions of Section 14.

xi. Disputes regarding payment of transit rent by the developers and arrears of transit rent.

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xii. Disputes on delays in the completion of the scheme and the complications arising therefrom.

xiii. Disputes on the acquisition of private lands declared as slums or slum rehabilitation areas.

xiv. Disputes on slums on government land or land belonging to public bodies.

xv. Lack of effective dispute resolution mechanism in litigation before forums such as the Grievance Redressal Committee and the Apex Grievance Redressal Committee, constituted under Section 34A and 34B respectively of the Slum Act, which hardly hold even one sitting in a week or fortnight, resulting in a large pendency of cases before such forums.

xvi. Proceedings arising from the non-consideration of the representation of the Chief Executive Officer, as well as proceedings arising from the effective and expeditious adjudication of disputes between slum-dwellers and developers, slum-dwellers and societies, or slum-dwellers and the SRA, before the Grievance Redressal Committee or the Apex Grievance Redressal Committee.

xvii. Apart from the aforesaid issues, there are several other disputes, including those between developers and financiers, as well as disputes between purchasers of free-sale tenements and developers, including those involving projects under MahaRERA.

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VI Magnitude of the Slums in Mumbai

231. Having noticed the variety of disputes arising from the implementation of the slum scheme, we may observe the applicability of the Slum Act to the areas in the City of Mumbai has assumed alarming propositions. According to the latest data available with the Mumbai Municipal Corporation, approximately 875.97 acres of land is under slums, which include private land as well as public land belonging to the State Government, Central Government, Municipal Corporation, etc. The total number of persons currently living in slums is estimated to be around 12 million (as per the official website of SRA). The situation of lands affected by slums within the jurisdiction of Mumbai Metropolitan area within the municipal jurisdiction of other seven Municipal Corporations is also quite concern. Hence, the areas of other municipal corporations surrounding Mumbai, namely, Thane Municipal Corporation, New Mumbai Municipal Corporation, Mira-Bhayander Municipal Corporation, Vasai Virar Municipal Corporation, Kalyan Dombivali Municipal Corporation, Ulhas Nagar Municipal Corporation, Bhiwandi Municipal Corporation as well as distinct corporations like Pune Municipal Corporation and Nashik Municipal Corporation, also have slums or slum areas on both government and private lands.

Analysis/Suggestions

232. The task in hand is assigned to this Court as per the directions of the Supreme Court in **Yash Developers** (supra). The Supreme Court observed that

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the propensity and the proclivity of the Slum Act to generate litigation was worrisome and that there seems to be a problem with the statutory framework for realising the purpose and object of the statute including referring to the decision in **Galaxy Enterprises** (supra). In such context, the Court observed that the Act came into being in 1971 and since then, for over five decades, the High Court has been exercising judicial review jurisdiction, disposing of writ petitions raising claims or challenges to the exercise of powers or dereliction of duties by authorities under the Act. It is also noted that a large number of cases have reached the Court and which are pending. It is in such context that the Slum Act, being a beneficial legislation, is intended to materialise the constitutional assurance of dignity of the individual by providing basic housing, so integral to human life. The Court referred to the decision of this Court in **Galaxy Enterprises** (supra), setting out eight parameters, stating that the statutory scheme is problematic on such issues as set out in paragraphs 56.1 to 56.8, which are as follows:

> "(i) Identification and declaration of land as a slum.
>
> (ii) Identification of slum dwellers.
>
> (iii) Selection of a developer
>
> (iv) Apportionment of the slum land between redevelopment area and sale area.
>
> (v) Obligation to provide transit accommodation for the slum dwellers pending redevelopment.
>
> (vi) Lack of independence and objectivity in the functioning of statutory authorities.
>
> (vii) Effectiveness of statutory remedies.
>
> (viii)Judicial review proceedings under Article 226 cannot be a long term solution."

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233. The Supreme Court has categorically observed that the said problems arising out of the statutory scheme and policy framework in fact should have come under review by the State of Maharashtra. It is also observed that an assessment of the working of the statute to realise its purpose and objective are achieved or not is the implied duty of the executive government and that reviewing and assessing the implementation of a statute is an integral part of the Rule of Law. It is in recognition of this obligation of the executive government that the Constitutional courts have directed Governments to carry out a performance audit of statutes. In these circumstances, a facilitative role of the judiciary compels an audit of the legislation, which promotes debate and discussion but does not and cannot compel legislative reforms.

234. It is in these circumstances, for reviewing the working of the Slum Act to identify the cause of the problems as indicated in paragraph 56 of Yash Developers (supra), the Court was tasked to hear the Government, the statutory authorities and the necessary stakeholders including intended beneficiaries by taking assistance of senior members of the Bar, it is ordered that the Bench may consider directing the Government to constitute a Committee for performance audit of the Act. It is with the aforesaid parameters, in our considered opinion, we have reflected on the working of the statute and the problems which have arisen, are discussed herein, for consideration of the Committee to be constituted by the State Government for undertaking a performance audit of the Act :-

Journey of the Legislation

235. The Slum Act was brought into force on 3 September, 1971 and has

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undergone 21 amendments from 1973 to 2025 as noted in paragraph 214 hereinabove, so as to adapt itself to the contemporary requirements as dealt with by the legislature.

236. The period from 1971 till date is a period of almost 55 years. Considering the nature of the legislation, which was primarily ad-hoc for making better provision for the Improvement, Clearance and Redevelopment of the slum area, it ought to have so far served its purpose by ameliorating the slum in the city of Mumbai as also in other cities in the State. However, time has shown that the extinction of the slums has remained a dream on paper, and in fact the magnitude of surrounding slums in the cities and more particularly Mumbai, is beyond any reasonable imagination and rationale.

237. The reasons are many:

(I) Lack of policy to protect lands from encroachments and prevent formation of slums.

i. No deterrent measures have been implemented to curb the proliferation of unauthorized settlements. On the contrary, it appears that, with the full knowledge of the concerned authorities and/or implicit assistance there has been a tacit recognition of such encroachments and more so on public lands wherever situated in Mumbai leading to formation of slums. Thus, over the years, slums have been permitted to develop on both public and private lands, whether due to inaction or active acquiescence on the part of the authorities. There cannot be any State policy that there is no deterrent against encroachments on private and

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public lands. Valuable lands belonging to the State Government, as also to the Municipal Corporation, MHADA and other public authorities, have been brazenly encroached upon over the years. Such illegal encroachments are now sought to be recognized under the policies of the Government of Maharashtra for the purpose of implementing slum schemes, whereby free or subsidized tenements are allotted to the encroachers.

ii. On one hand, the encroachments on government lands were permitted by no action being taken and on the other hand, merely because such encroachments have continued for many years and fall within the framework of cut-off dates notified by the State Government, the encroachers are being held to be entitled to *in-situ,* free tenement of 300 sq.ft. This is not only unconscionable but also amounts to a fraud on the Constitution for the following reasons:

(a) The primary duty of the government bodies to protect the valuable limited public land more so in an island city like Mumbai, the basic legitimate expectation in public interest, has been persistently disregarded for years together, not only by the ground level officials but also by the higher authorities and officials at the highest levels;

(b) Having proliferated the slums, the creation of policies that recognize such encroachments by attributing development potential and categorizing these lands as slums is another aspect which is extremely worrisome and in fact beyond any legitimate principles of law as recognized by the Constitution and/or is against the ethos of the constitutional requirements of allotment of State largesse. A policy granting free and/or subsidized tenements to encroachers of public lands, finds no justification within the constitutional scheme. The consequences of such a policy are deeply concerning when tested on the constitutional

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principles.

(c) By not taking any action against encroachment, public land is deprived of its potential use and benefits. Such lands could otherwise be utilized for essential public purposes, including hospitals, dispensaries, bus depots, gardens, playgrounds and other civic amenities.

(d) When such encroachments are protected under the statutory schemes that provide free or subsidized tenements, it amounts to dealing with State largesse and that too in a coerced manner, leading to the only consequence that the public land would be required to be used only for the purpose of housing the encroachers/slum dwellers and that too *in situ*;

(e) Once the compulsory development of such encroached government land as foisted against the principles of Constitutional morality, is being legitimized and being recognized under the legislative scheme of redevelopment of slums. Thus, not only do the encroachers/slum dwellers become the stakeholders in exploiting the land to become owners of the tenements. Also the very development of such encroached land is being legalized, being carried out by the developer appointed by the slum dwellers, who would get a share in the land to construct a building in which apartments for free sale would be constructed, thereby creating private rights over public land under the guise of slum redevelopment.

(f) Consequently, prime government lands, without the will of the people and contrary to the principles recognized by the Constitution in allotment of State largesse, under such camouflage arrangement of the slum redevelopment is expropriated for unintended purposes being foisted by the slum dwellers. At their behest, valuable government lands become available to the developers, which otherwise would have to be obtained through the process known to law if it is to be sought from the Government or acquired from the private owners at competitive market prices. Thus, a patently illegal scheme of siphoning off the valuable government land is legalized by such arrangements under the garb of

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encroachment and slum formation. Slums are formed wherever an Government/public land is available not even hillocks are spared on mangroves/marshy lands. This is illustrated from the nature of the slums found everywhere in a ariel view as observed by Dipankar Datta, J. (as His Lordship then was) in his concurring judgment in **High Court on its own motion v. Bhiwandi Nizampur Municipal Corpn. (Jilani Building)** (supra), when His Lordship observed thus:

> 114. ……Regrettably, instead of moving in the direction to have a planned and sustainable development, the successive Governments together with the Corporation seem to have unabashedly allowed mushrooming of slums at the instance of squatters by encouraging them not only to encroach more and more of public property but, simultaneously, by enacting laws to protect such unauthorized occupation. Enacting laws to further the interests of the weaker sections of the society is the obligation of every State in terms of Part IV of the Constitution and any move in that behalf ought to and must be welcomed. People living in slums do equally have a right of decent living conditions, which can be ensured by relocating them with proper housing facilities. However, a vicious nexus involving high profile personalities, bureaucrats, builders and slum lords have created a situation where public property is first encroached without resistance being provided by the law enforcing agency, followed by a declaration of slum gradually progressing to redevelopment by builders ostensibly for slum dwellers but really to further the interests of the "haves". In the garb of legislation, in a novel manner, a fraction of the population including holders of public offices have continued to prosper by achieving their goals through impure means which are nothing short of betrayal of the trust that the people of this region have reposed in those responsible for an able governance. While it was the need of the hour to make housing projects a reality more effectively and with empathy, what has been laid bare is the apathy and indifference to cater to the needs of the hapless coupled with a complete lack of sensitivity. The reasons are not far to seek. Quite contrary to the ideals and values embodied in the Constitution which lay down the basic framework of the social and political structure of the country and sets out the objectives and goals to be pursued by the people in a common endeavor to secure happiness and welfare of every member of the society and despite taking oath to uphold the laws, actions of those in power and authority are now invariably driven by political motivations or other oblique considerations. No wonder, the casualty is the compassionate Constitution of ours."

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(g) There does not appear to be any comprehensive accounting of how much government land in an island city like Mumbai has not only vanished but is in the process of being lost from the public pool of lands.

(iii) It is wholly unacceptable that merely because the State Government lacks a robust public housing policy and/or a pool of houses being created to be made available for the class of people who are required to encroach such slum, the existence of such slums on government lands would forever deprive the public at large of the benefits of such public lands. Statutory recognition of such encroachment amounts to the grossest fraud on the Constitution. The sequel being that the authorities would state that they would not safeguard the Government lands and by permitting encroachment, make way for redevelopment of the Government land purely for rehabilitation of slum dwellers and purely for commercial exploitation by developers, can never be the rule of law.

(iv) In our opinion, this grave concern requires immediate attention in the working of the Slum Act in the Government having a performance audit of the Slum Act by constituting an Expert Committee. Although considerable time has already passed, there still remain large tracts of government land belonging to the State Government, the Municipal Corporation, MHADA, MMRDA and other public bodies, which suffer encroachment and are at the risk of being permanently lost to private exploitation. In our opinion, the only approach would be for the Government to review the slum rehabilitation policy qua the

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public lands and to not recognize any right of encroachers who occupy such land, irrespective of the duration of such occupation, particularly for whatsoever period for rehabilitation and more particularly in respect of *in-situ* rehabilitation. Recognizing such rights amounts to conferring legitimacy upon illegality of the highest order, and no illegality of such magnitude can be rewarded with the grant of free slum tenements under any scheme, even if constructed by private developers.

(v) The endeavour of the State Government needs to urgently undertake demarcation of the public lands which are encroached and more particularly considering that in a city like Mumbai and its suburbs, public land is extremely scarce and must be safeguarded rather than siphoned off in such a manner. No patronage by official machinery, slum dwellers, developers, public representatives or higher officials in the Ministry can overlook the basic requirement of the Constitution against such coerced utilization of public land for the benefit of encroachers and private development. In fact, a robust mechanism must be instituted to take strict action against the officials who are guilty of dereliction of duty in safeguarding public lands.

(vi) If the Government is nonetheless of the opinion that such encroachers require rehabilitation, then a robust housing policy must be formulated to create a pool of government-owned housing that can be made available on a licence basis for reasonable compensation and an appropriate expert study on such issue is required to be undertaken. It is in such context of government lands that the Division Bench of this Court in **Jilani Building** has

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frozen any slum rehabilitation scheme on government lands and has permitted such schemes to operate only in the following terms.

> "xii) In so far as the State Government's land and/or other public lands in respect of which, till date no slums schemes are approved by the Slum Rehabilitation Authority, such lands shall not be redeveloped under slum redevelopment schemes, unless the State Government or the concerned public authority gives a 'no objection', to be published, in at least two local newspapers, that in future it does not require such public lands for any of its purposes, or for the public purposes of any other public bodies under the State or the Central Government. Unless, such no objection is received from the State Government or the Central Government or any other public body, the development of any slum scheme or private utilization of such land shall stand freezed.
>
> xiii) The State Government and the public bodies shall take appropriate steps as permissible in law, to remove the encroachments of the public lands as described in (xii) above, so that land is made encroachment free, to be utilized for public purpose.
>
> xiv) In the event the encroached lands are required by the State Government or by any public body, steps be taken to remove the encroachment and make the land encroachment-free within one year, by rehabilitating the slum dwellers of such lands, if they are protected occupiers. Such eligible slum dwellers be rehabilitated in any other part of the city or in the municipal jurisdiction of the adjoining municipal corporation as the State Government may decide."

(vii) The aforesaid terms are followed only in breach, which become a matter for the accountability of the Chief Executive Officer or any other Government official in appropriate proceedings.

(II) Vertical slums :

(i) Whether it is affordable to have vertical slums wherever there are open lands in Mumbai and other cities, is a matter of serious concern, particularly when it is a common sight. The slum tenements are scattered all over, the density of population would certainly not commensurate with the development potential

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of the land. The concept of enhanced development potential for slum redevelopment was first introduced under the Development Control Regulations, 1991 by the incorporation of DCR 33(10). Illustratively, if the land encroached is say about 10000 sq.ft. and accommodates 435 slum dwellers, the DCR provision may permit an FSI of up to 4, which would be equivalent to 40000 sq.ft., out of which only a meagre percentage would be available for rehabilitation of the slum dwellers and the remaining development potential is made available to the developer for free-sale buildings. The cost of constructing rehabilitation buildings is thus effectively subsidized through the private commercial exploitation of the remaining land. This is precisely the scheme. Thus, the land which had scattered slums, ultimately houses distinct vertical settlements, one consisting of rehabilitation buildings for slum dwellers and the other comprising of free-sale buildings marketed in the open market. Thus, the density of the residents on the very same plot of land by such redevelopment is increased to four times from what was the original position or even sometime more depending on the number of tenements in the same area, the developer will fix. This mechanism not only enhances the density of the population on the existing land by bringing on such land a large number of people from the open market but also adds to the woes on the weak and challenged infrastructure like width of the road, water, electricity, hospitals, lack of open space, gardens, sewerage etc.

(ii) Mr. Seervai has pointed out the pathetic condition of these vertical slum buildings being permitted to be constructed, having no light and ventilation, and in between two slum buildings, dust and filth being rampant. If such position is

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to be believed in respect of such redevelopment, the question is whether at all the object of the Slum Act is being achieved or the same is proved to be counter productive.

(iii) Certainly in undertaking redevelopment of the slums, there is no warrant for straining the existing infrastructure by having the vertical redevelopment of the slums. This aspect requires an appropriate study, more particularly considering that in a larger city like Mumbai, there is hardly any open space left except to be utilized for redevelopment of the slums. The suggestions of the learned Amici as made by Mr. Seervai need to be considered by the State Government.

III. Identification and demarcation of slum land :

(i) There is an urgent need for phasing of these slums by undertaking demarcation of such slums, in regard to which, the Slum Rehabilitation Authority has already initiated steps such as geo-mapping, satellite imaging and biometric identification, in order to freeze the number of slum dwellers in such areas, whether situated on private or public land. A comprehensive assessment of housing requirements for such occupants must be undertaken.

(ii) If slums are to be permanently ameliorated and/or removed, a robust mechanism to prevent further encroachment and a systematic manner in which such encroachment would be dealt with by creating public housing is the need of the hour. It is only in these circumstances that an adequate and appropriate utilization of the resources can be brought about. It is inconceivable that

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encroached land should be used primarily for housing coupled with private commercial exploitation, thereby leading to the creation of a monstrous concrete jungle.

IV) Role of the Slum Societies and their Controlling Authority:

(i) From the ground reality, and as to what is actually happening in the redevelopment of slums, is the purported formation of the co-operative society by the slum dwellers and technically in a method being followed by them as recognized by the Slum Rehabilitation Authority by holding a special general meeting under the supervision of the concerned Deputy Registrar of Co-operative societies (Slum Rehabilitation Authority) and such meeting being held to appoint a developer. The purported consensus in such meeting to appoint a developer and thereafter a development agreement being entered into with such developer and the developer thereafter submitting a proposal to the SRA for redevelopment of a slum, which would include construction of a slum rehabilitation building to house the slum dwellers and construction of a free sale building from where the developer would compensate himself by selling the residential and commercial spaces in the open market. This is normally the scheme in which the redevelopments are taking place. However, the experience is something different and the same has been considered by the Division Bench of this Court in **Bishop John Rodrigues vs. The State of Maharashtra & Ors.** (supra), where the Court made the following observations in regard to actually the developer hunting the slums and forming societies, and it is the developer who,

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under such garb of having been appointed by the societies, does everything right from the beginning and culminates it into the construction. The said observations of the Court are required to be noted which read thus:-

> "99. The SRA and whosoever is concerned in regard to the slum redevelopment need to be conscious of the ground realities namely that it is an herculean task in a city like Mumbai to remove any encroachment on private and public land. It is equally difficult for a private owner of the land to safeguard its land and prevent encroachment. This is the sad story, as encroachment does not happen by such encroachers simplicitor squatting on the land, invariably the encroachment is backed *inter alia* by slumlords, criminals, social workers, politicians (as the squatters would be vote banks). For a bonafide landlord, it is impossible to fight with such forces and keep litigating on removal of encroachment. Thus, to achieve removal of the encroachment, is seen to be impossible for the landlords and for public bodies like State Government and Municipal Corporation as also the Airport Authority, as major public lands in the City of Mumbai have vanished from the public pool and are subjected to private development by developers under the garb of slum re-development, as the rulings of this Court on several such issues would remind us of these woeful realities. In these circumstances, persons like the developers who are interested in commercial exploitation of any land under the slums may it be private or public, who are backed by other powerful forces and many times also by the government machinery, initiate proceedings under the Slum Rehabilitation Act for declaring private land as a slum. The moment such a declaration takes place, a nightmare and one of the most difficult journeys any citizen who owns land, commences namely to pursue litigation on such a declaration. It is hence as good as a preliminary capital punishment in so far as the ownership rights qua the private land are concerned. The way forward is just to be imagined. This being the case immediately developers who keep track on such development potential purportedly at the behest of the slum society come forward on a purported appointment by a slum society. In reality it is seen that it is the developer who actually forms the slum society. He is the one who is taking steps to enter into a development agreement with the society and the slum dwellers and put up a proposal before the SRA through his architect, everything in the name of the slum society. This for the reason that there is a bonanza of FSI of a free sale component available to be developed by the developer. The question is why should the developers have such bonanza on a land of somebody's ownership or of a private ownership. **Thereafter, the SRA purporting to exercise some pious obligation would, under a label of social sympathy and purportedly to forward the object of the Slum Act, commence a process to permit development at the hands of such developer and in a given situation, start proceedings to acquire the land. To say the least, we can certainly take a judicial notice that this has been a sad reality, replete on this branch of slum jurisprudence, as majority of these cases are asserted by the developers with all resources and legal ammunition they could have.**"

(emphasis supplied)

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(ii) There is so much of credence to the fact position in regard to the role of the slum societies. First and foremost, it is quite difficult for a slum society *per se* to have any expertise in selection of a developer, inasmuch as it would be the leaders of the slums who have in reality been approached by these developers, to get convinced that a particular developer needs to be appointed and that too for a large project, foisting their discretion on the other slum dwellers. The reason being that the credentials of such developers appointed would be tested for the first time when a proposal is submitted to the SRA by such developers. However, the proposal is itself submitted only after the development agreement is entered into with the slum dwellers. Thus, once the developer is appointed by executing the agreement, it becomes an irreversible position for the society to back out from such agreement, in the event the developer subsequently appears to be not worthy of taking forward the development. There is a likelihood of a number of issues / disputes arising on account of the developer not specifically not complying with its obligation under the development agreement. This is the normal situation. In such context, prominently the issues which reach before the Court are the issues of non payment of transit rent, the developer not entering into the permanent alternate allotment agreement by demarcating specific tenements, commercial or residential, gross delay in undertaking the redevelopment and the dispute in regard to financial incapacity, to name a few.

(iii) On the aforesaid backdrop, in our opinion, such redevelopment cannot be purported to be a slum dweller society-centric (when in reality it is not) it is in fact developer-centric, inasmuch as it is the developer who does everything right

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from formation of the society and managing all subsequent affairs with the SRA till the occupation certificate is granted. The reality is that it is the developer who controls everything and the entire slum redevelopment wherever it takes place is a developer's paradise.

(iv) This model in the statutory colour it wields needs to be reconsidered, is our opinion, which would be by streamlining the role of the slum society and participation of the slum dwellers in the redevelopment being replaced by having a robust mechanism which would involve the committee of the SRA that would in fact identify and select a reputed developer from its panel so as to effectively achieve the goals for the society of slum dwellers. Solely everything being done *sub silentio* by the society, when in fact it is undertaken by the developer, needs fundamental correction. This more particularly, considering the helplessness of the slum dwellers in finding out the right person to be appointed as a developer, which itself goes to the root of the redevelopment, as large number of disputes are arising only from such position of the developer which is between the society and the SRA.

(v) This assumes importance, more particularly when the land on which the slum redevelopment is being undertaken, is the land belonging to the State Government or to public bodies like the Municipal Corporation, MHADA, MMRDA etc. The question arises as to why, in respect of such lands, the society needs to be the sole propeller to initiate redevelopment and ultimately this developer, the society and the SRA become the only active participants in the development, with the owners of the land namely the State Government,

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MHADA, MMRDA, etc., being rendered to be mute spectators in the scheme of redevelopment as it stands. In this regard, serious observations are made by this Court in Galaxi Enterprises (supra) as also in New Janata SRA Co-op. Housing Society Ltd. (supra).

(vi) We find from the provisions of the Slum Act as also the DCPR 33(10) that the role of the society is very limited as specified in Sections 13, 15A and Regulations 1.6, 1.11, 1.16. This certainly requires a deeper reconsideration as such relationship *inter se* between the society and the developer *vis a vis* SRA has generated enormous litigation.

V) <u>Slum on Private Lands:</u>

(i) Slum redevelopment, from the very beginning, when the Slum Act was introduced, has been the subject matter of litigation. As noted hereinabove, slums are generated by encroachments on public and private lands. Once slum settlements come into existence, they are, for all effective purposes, regarded as areas of concern within the urban agglomeration, affecting town planning and the surrounding areas in their vicinity. The procedure to declare a slum under Section 4 is the first step towards recognizing such a slum. If such declaration is in respect of private lands and in regard to settlement on private lands which are regarded as slums, large scale litigation is generated by challenging such action. The concern is for disputes raised before different authorities as also before the Court, is the action on the part of the Slum Rehabilitation Authority to take recourse to the provisions of Section 3C to declare the area as a "slum

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rehabilitation area", at the request of a slum society, and once such slums are so declared as "slum rehabilitation areas", under the garb of the owners not undertaking the redevelopment of the slum, the Chief Executive Officer resorts to compulsory acquisition of the private lands for the purpose of slum redevelopment at the hands of the society so appointed. This has been the subject matter of consideration in several cases before this Court. (**Ref.: Indian Cork Mills Pvt. Ltd. vs. State of Maharashtra, Bishop John Rodrigues Vs. State of Maharashtra and finally the decision of the Supreme Court confirming the said decision of this Court in Tarabai Nagar Cooperative Housing Society Vs. State of Maharashtra and Saldanha Real Estate Pvt. Ltd Vs. Bishop John Rodrigues and Ors).**

(ii) It is quite routinely seen that the provisions for declaration of a land as slum are invoked by the Chief Executive Officer so as to deprive the owner of the preferential rights of redevelopment of his own land. The position in this regard although now is well-settled.

(iii) The thought in this regard is required to be to weed out slums in private properties so as to ameliorate the slums phasewise and for which proper technical assistance is to be provided by the SRA. A need for appropriate provisions which would safeguard the valuable rights of property of the landowners which include the right to enjoy all the benefits derived from it (usufruct) are required to be considered, can a deeper thought on such aspect is the need of the hour.

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VI Constitution of Apex Grievance Redressal Committee (AGRC) and Grievance Redressal Committee (GRC):

(i) A Full Bench of this Court in **Tulsiwadi Navnirman Co-op. Housing Society Ltd. & Anr. vs. State of Maharashtra & Ors.** (supra) was considering large scale litigation reaching this Court on issues pertaining to slums and redevelopment of slums, which involve a fact finding exercise. It is in such context, and also in the context of the decision of this Court with regard to the nature of powers conferred upon the State and Slum Rehabilitation Authority during the course of implementation and monitoring of the Slum Rehabilitation Scheme, that the issues were considered by the Full Bench of this Court as referred by the Division Bench in the case of **Tulsiwadi Navnirman Co-op. Housing Society** (supra). The relevant observations as made by the Court are required to be noted, which read thus:

> **"2.** The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, (hereinafter referred to as "Slum Act" for short) came to be extensively amended in 1996-1997 and 2001, introducing Chapter I-A therein. That Chapter is entitled "Slum Rehabilitation Scheme". Under that Chapter falls Section 3A. This provision is inserted with a view to establish a Slum Rehabilitation Authority (S.R.A. for short) for implementing Slum Rehabilitation Scheme. After this Chapter was introduced in the Slum Act and such Authority became functional for Brihanmumbai and its suburbs, that the S.R.A. decided to undertake and implement several rehabilitation schemes. The State took notice of proliferation of Slums on public lands and properties. Therefore, it decided to confer wide powers on the S.R.A. so that the public lands are cleared by S.R.A. acting in co-ordination with the local authorities. For that purpose, the State Government made appropriate amendments and inserted provisions in the planning and local laws. Insofar as, Mumbai is concerned, S.R.A. was put in charge of permitting developments on lands, which had large slum pockets. Lands were of private/public ownership. Therefore, after amending Maharashtra Regional and Town Planning Act (M.R.T.P. Act) for short, the Development Control Regulations for Brihanmumbai (D.C. Rules 1991) were also amended. These Development Control Regulations are traceable to section 22(m) of the M.R.T.P. Act, 1966.

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For individual development to be controlled, monitored and regulated as also restricted, development control rules were made and they are traceable to the Development Plan itself.

3. One of the Regulations in the set of Regulations, to control development in Mumbai, pertains to Floor Space Index and its computation (F.S.I.). While, computing the permissible F.S.I. for development of the lands/property, incentives were offered by the State and Local Body (Brihanmumbai Municipal Corporation) to Developers and Builders. An obligation was cast upon them as also the owners of these private lands to rehabilitate the slum dwellers at the same site as far as possible and after discharging this obligation to develop the plot/land. The incentive was increased F.S.I. or appropriate adjustments in computing permissible outer limit. At the same time, the slum pockets were also offered incentive inasmuch as persons residing in slums were permitted to organise themselves into Co-operative Housing Societies and such Co-operative Societies were further permitted to come forward with a proposal for development of the land, on which slums are situated or located, either by societies themselves or an outside Agency and incentives were offered for the same as well.

4. The underlying object for the above being clearance of the lands by removal of the slums and dilapidated structures. It is now a well known fact of which judicial notice has been taken repeatedly, that large scale encroachment takes place as far as Government properties and lands are concerned. The Government and its instrumentalities and agencies are unable to control encroachment, illegal squatting and unauthorised development on its lands as the political will and strength is lacking. The slum pockets being Vote Banks, preventive or prohibitory measures are not initiated at right time. The number of encroachers and squatters on lands, roads and pavements have increased and one can witness the same. Once the incentives were offered as above and regulatory and rehabilitation measures and schemes were mooted number of disputes and differences between the slum dwellers/encroachers and the local authority and appropriate agencies have arisen which are consuming valuable time of this Court. In such disputes, the acts and omissions of the Authorities and Agencies are highlighted. The State and the SRA does not resolve them is the principal grievance. Hence, steps are taken to approach this Court.

5. Every Division Bench assigned constitutional and writ matters on the Original Side has to deal with petitions under Article 226 of the Constitution of India arising specifically from Mumbai, wherein above disputes and differences are involved. **The request is to resolve the same in this Court's constitutional and Writ Jurisdiction.**

6. Noticing an increasing spate of litigation and the nature of disputes and differences projected therein, it was decided that certain parameters need to be laid down which would enable this Court to take note and cognizance of genuine grievances. Hence, the first and foremost objective of setting up a larger Bench was laying down the parameters.

…….

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> 14. Broadly, the disputes which are brought before the Court and highlighted by the facts in the two petitions noticed above are between slum dwellers themselves, Slum Dwellers and Developer, Developer in a Rehabilitation project who is not acceptable to a particular group or section of slum dwellers, they propose name of another developer and last but not the least between the slum dwellers, developers and the B.M.C. and S.R.A. This is a common complaint. The implementation of the scheme or project is obstructed and often comes to a complete halt on account of inaction by the S.R.A. and the State Government. They do not take any cognizance of common grievances, for example, removal of the Minority or obstructing occupants from the site etc. On some occasions, they refuse to intervene. The allegation is that SRA or State sides with one group or the other. Resultantly all disputes land up in this Court and that is how petitions under Article 226 of the Constitution of India, are filed."
>
> (emphasis supplied)

(ii) It is in such context, the following questions were framed by the Full Bench as set out in paragraph 15 of the said decision, which read thus:

> "15. There are several such matters which have been grouped together. It is in the backdrop of such factual and other disputes and complaints with regard to implementation/non implementation of the schemes and projects meant for slum dwellers that the following questions were formulated, for being answered in this reference, by the Division Bench:—
>
> (a) Whether, a private party can seek resolution of dispute and claim relief entirely falling in the private domain, under the garb of Public Authority not functioning?
>
> (b) Whether Municipal Corporation or S.R.A. are responsible for defaults, under the schemes of Slum Redevelopment or under Urban Renewal Schemes?

(iii) The aforesaid issues were answered by due consideration of the provisions of the Act and Development Control Regulations in the following terms:

> **"111.** We have actually not nor should it be understood that we have in any way expressly or implied restricted the scope of applicability of Article 226 of the Constitution to such cases. We have only indicated certain cases where inter or intra-departmental mechanism may be invoked in consonance with the scheme of the Act before approaching this Court. Such classification is not exhaustive but is merely an indication of class of cases where the Court in its discretion may require the parties to take recourse to such remedy. These principles are neither innovative nor new percepts but are re-appreciation of well accepted principles.

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112. Compelling the parties to file suits would neither be efficacious, alternate remedy nor would meet the ends of justice in all cases.

113. Till such time as the Legislature or the State Government makes changes or amendments, it would be just, fair and proper to direct that a Monitoring Agency/mechanism should be set up by the State so that the power to supervise and issue directions available in the Slum Act can be exercised effectively. The State Government as also the Slum Rehabilitation Authority has not opposed this course during oral arguments. Hence, we are of the view that the State should immediately establish a monitoring agency. It is necessary to do so for the following reasons:—

114. That apart, with a view to remove all apprehensions in the minds of slum dwellers and other aggrieved parties, we suggested to the learned Advocate General that the State should immediately set up a monitoring agency/mechanism so that the power to supervise and issue directions available in the slum Act can be exercised effectively. In all fairness, learned Advocate General stated that directions be issued in that behalf. The State should immediately put a monitoring agency in place.

a) Considering that the Eligibility criteria is determined by the District Collectorate and in cases of land belonging to public body by the Competent Authority thereof, the scheme works with co-operation and co-ordination of these Authorities. It is, therefore, of utmost importance that the SRA acts as a Chief Co-ordinator and the Government, being the ultimate and final body, which establishes authority like SRA and sets up public authorities like MHADA, MMRDA etc. should have a final word.

b) The Government and all such bodies have a duty to undertake and implement these projects. The implementation is not restricted only to sanction and approval of plans and grant of permission. The Government must see to it that the purpose of establishing SRA is achieved and slum dwellers are rehabilitated, so that the government and private lands are slum free. Equally the pavements, which are meant for use of residents and tax payers are cleared. In other words, if the Government does not want proliferation of slums, then it has to take steps to ensure Coordination and Harmony amongst the Agencies and Authorities.

c) It would be of utmost importance that the Government sets up high power committee, consisting of a person, preferably a Principal Secretary, to be nominated by the Secretary, who shall be assisted by Chief Executive Officer/SRA, CEO/Vice President of MHADA and CEO/Vice President of MMRDA and Commissioner of Municipal Corporation, Gr. Mumbai.

d) That any complaint about eligibility of slum dwellers, eligible slum dwellers being denied tenement, developers not undertaking and completing the project as per the permission and approval so also within the stipulated time frame, transit accommodation being unavailable or not provided for etc. shall be addressed to this Committee and grievances be looked into by it accordingly. The Courts cannot be approached straightway unless and until above mentioned Committee is first moved by the aggrieved person in the form of an application/complaint in writing. If the grievance is not redressed or complaint/representation is not attended to, then and in

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> **that event this Court can be approached under Article 226 of the Constitution and not otherwise. Ordinarily, no person can approach this Court directly without exhausting the above remedy**.

> **115.** In the result, we are of the opinion that writ jurisdiction is available in matters of Rehabilitation of Slum Dwellers but the limits of exercise of power should be confined and restricted to matters, which remain unresolved despite the remedies of Appeals etc. being exhausted. Similarly, in the illustrations given by learned Advocate General, this Court can be approached only if the decision of SRA or State is permissible for being interfered with on the settled principles in writ jurisdiction. We have given illustrations and categories of case wherein a prerogative writ may be issued so as to ensure smooth and effective implementation of Slum Rehabilitation Scheme. However, the writ jurisdiction will not be available where the dispute is essentially private or contractual and the State Government, SRA and other local bodies are impleaded as parties only to file writ petition. In other words, when the main relief is not sought against these bodies, yet, they have been impleaded as parties and the dispute is mainly and essentially between private parties involving purely private law, then, writ petition is not the remedy.

(iv) The questions framed in paragraph 15 were answered by the Full Bench in the following terms:

> **"118.** In the result, we answer the question framed hereinabove as under:
>
> A) While exercising the Jurisdiction and powers under Article 226 of the Constitution of India in matters concerning Rehabilitation - of Slum Dwellers and schemes framed under relevant statutes, distinct yardsticks cannot be carved out nor separate parameters laid down by this Court.
>
> B) However, the limits and restrictions which are placed on the writ jurisdiction of this Court by Authoritative pronouncements of Supreme Court would govern the writ petitions challenging the orders, actions/inaction of the Authorities in-charge of implementing and/or monitoring the Slum Rehabilitation Scheme.
>
> C) It is clarified that ordinarily a petition under Article 226 of the Constitution of India can be filed and depending upon the facts and circumstances of each case, this Court can decide to intervene, even if, alternate remedy provided above is not exhausted by the petitioner. However, such intervention should be minimum and the Court must abide by the Rule of caution and Prudence enunciated by the Supreme Court in this behalf. In exceptional and deserving cases, this Court would exercise its powers and no general rule can be laid down in that behalf.
>
> **D) As far as disputes and questions involving the slum dwellers and Slum Rehabilitation Authority/Public Body/State, Co-operative Housing Society of Slum Dwellers and Developers, Registered Co-operative Housing Society of Slum Dwellers on one hand and proposed Co-operative Society on the other, Developers and S.R.A./State, a Writ petition under Article 226 of the Constitution of India would not lie or would be entertained unless**

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and until the parties exhaust the remedy of approaching the High Powered Committee referred to above.

E) The only exception that can be made to Clause (D) above, is with regard to Writ petitions challenging the validity and legality of the Rules, Regulations and Policy Circulars/directives issued under the Statutory provisions or the vires of the Statutory provisions themselves. In such cases, the Court would not insist upon exhaustion of remedies stipulated above. Similarly, if a High Powered Committee/Authority refuses to act on the representations/applications despite proof of the same having been received, then, in appropriate cases, directions can be issued to the said Authority. However, the parties must satisfy this Court that they had made a grievance with regard to inaction of High Powered Committee to the State Government and it has also refused to issue any directions to either that Authority or SRA. Thus, if the State inaction is also alleged, then, the petition can be entertained. However, grant of relief would depend upon this Court satisfying itself about the promptness or sense of urgency shown by the aggrieved party apart from its bona fides in approaching this Court.

F) Needless to state that the Rule of Prudence and caution evolved by the Supreme Court with regard to exhaustion of alternate remedy would always be applicable. If the disputes and questions raised involve factual aspects or necessitate leading of oral and documentary evidence, then, this Court can refuse to interfere in writ jurisdiction leaving open to the parties, remedy of suit in competent civil court or Arbitration.

G) It is clarified that purely private disputes or those involving contractual rights, brought before this Court by way of writ petitions, will have to be ordinarily resolved by recourse to civil suit or arbitration and this principle would apply even to petitions where the State, S.R.A., B.M.C., MHADA etc. are impleaded as parties.

H) An exhaustive category of such cases and disputes cannot be framed and the General principles governing writ jurisdiction would be applicable having regard to the facts in each case."

(emphasis supplied)

(v) In view of the aforesaid directions of the Full Bench, initially a High Power Committee (**HPC**) was constituted by the State Government to adjudicate the disputes of the kind as observed in the said decision of the Full Bench. However, subsequently, an amendment was brought about to the provisions of the Slum Act by incorporating Section 34A and Section 34B for the constitution of AGRC and GRC respectively. Such amendment was incorporated by Maharashtra Act No. 33 of 2023 with effect from 8 March, 2017. Sections 34A and 34B are required to be noted, which read thus:

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"34A. Constitution of Apex Grievance Redressal Committee.—

(1) The State Government shall, by notification in the Official Gazette, constitute, the Apex Grievance Redressal Committee or Committees, for such area as may be specified in the notification, consisting of the Chairperson and such number of members and for the purposes of exercising such powers and performing such functions as the Government may deem fit to assign to it under this Act.

(2) The Apex Grievance Redressal Committee shall exercise the powers and perform the functions, as follows, namely :—

(i) to hear and dispose off appeals against orders of the Chief Executive Officer or any Officer to whom the powers are delegated by the Chief Executive Officer, as provided under this Act;

(ii) any issues or matters referred to it by the State Government.

(3) The qualifications of the Chairperson and the members of the Apex Grievance Redressal Committee, the procedure to be followed for transacting its business and quorum for its meetings, shall be such as may be prescribed.

34B. Constitution of Grievance Redressal Committee.—

(1) The State Government shall, by notification in the Official Gazette, constitute Grievance Redressal Committees consisting of Chairperson and such number of members as the Government may deem fit, for such areas as may be specified in the notification for the purposes of exercising the powers and performing the functions as may be assigned to it under this Act.

(2) The qualifications of the Chairperson and the members of the Grievance Redressal Committee, the procedure to be followed for transacting its business and quorum for its meetings, shall be such as may be prescribed."

(vi) It is thus clear that AGRC would exercise powers to hear and dispose of appeals against the orders of the Chief Executive Officer or any officer to whom the powers are delegated by the Chief Executive Officer, as provided under the Act. Further, the "Grievance Redressal Committee" exercises powers as assigned to it under the provisions of Section 35 of Slum Act that is to decide the appeals. Section 35 reads thus:

35. Appeals.—

(*1*) Except as otherwise expressly provided in this Act, any person aggrieved by any notice, order or direction issued or given by the

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Competent Authority, may appeal to the Appellate Authority, who shall be a person holding a post not below the rank of Additional Collector, in respect of the areas of Municipal Corporations and "A" Class Municipal Councils, and not below the rank of Deputy Collector, in respect of areas of other Municipal Councils, to be notified by the State Government, within a period of thirty days from the date of issue of such notice, order or direction.

(*1A*) Any person,—

(*a*) aggrieved by any notice, order or direction issued or given by the Appellate Authority under sub-section (*1*), may file an appeal within a period of thirty days from the date of receipt of such notice, order or direction, before the Grievance Redressal Committee;

(*b*) aggrieved by any notice, direction, circular, decision, order, permission or approval issued or given by the Chief Executive Officer of Slum Rehabilitation Authority or any Officer to whom the powers are delegated by the Chief Executive Officer, may file an appeal within thirty days of receipt of such notice, direction, circular, decision, order, permission or approval, before the Apex Grievance Redressal Committee.

(*2*) Every appeal under this Act shall be made by petition in writing accompanied by a copy of the notice, order or direction appealed against.

(*3*) Any appeal shall not operate as a stay order appealed from except so far as the Appellate Authority may grant by reasoned order, nor shall execution of any other be stayed by reason only of an appeal having been preferred from, but the Appellate Authority may for sufficient cause order stay of execution of such order and if the notice, order or direction against which appeal is made and is set aside by Appellate Authority on an appeal disobedience thereto shall not be deemed to be an offence.

(*4*) No appeal shall be decided under this section unless the appellant had been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner.

(*5*) The decision of the Grievance Redressal Committee and the Apex Grievance Redressal Committee on appeal shall be final and shall not be questioned in any court."

(vii) The issues which have continuously reached the Court in regard to matters pertaining to AGRC and GRC are as under:

(a) Large number of matters are pending before the AGRC as well as the GRC. These Committees are unable to dispose of the interim applications and the appeals expeditiously as they do not have regular sittings or have limited sittings considering their composition of its

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members. We take judicial notice of the fact that in this regard several petitions are filed merely seeking directions to the AGRC to decide the appeal or the Interim Application for stay or for interim orders, and for the said reason that these committees do not hold sittings every day and is, on many occasions, available only once or twice in a fortnight.

(b) The next grievance is that, considering the orders which are required to be passed by AGRC on the nature of disputes in the appeal, it is of utmost necessity that a person trained in law, i.e., a retired Judicial Officer or a person who has practiced as an Advocate with sufficient experience at the Bar, be appointed as a Member of the AGRC. We find that presently AGRC comprises of five members, who are officers of the State Government, as follows:

- Chairman: Additional Chief Secretary, Mumbai Metropolitan Region Development Authority

Committee Members:

- Vice President/ Mumbai Metropolitan Region Development Authority (MMRDA)
- Chief Executive Officer, SRA
- Additional Municipal Commissioner, Municipal Corporation of Greater Mumbai
- Additional Commissioner, Municipal Corporation of Greater Mumbai."

The following officers constitute the GRC:

"**Grievance Redressal Committee (Mumbai City)**

- Chairperson: Additional Collector / Divisional / Special Executive Magistrate, Mumbai
- Joint Chief Officer, MMRDA, Mumbai
- Deputy Commissioner, MCGM as authorized by the Commissioner, MCGM, Mumbai

Grievance Redressal Committee (Mumbai Suburban)

- Chairperson: Additional Collector / Divisional / Special

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Executive Magistrate, Mumbai Suburban
- Joint Chief Officer, Rehabilitation and Resettlement Board
- Deputy Commissioner, MCGM as authorized by the Commissioner, MCGM

Grievance Redressal Committee (Thane City)

- Chairperson: Additional Collector / Divisional / Special Executive Magistrate, Thane
- Joint Chief Officer, MMRDA, Konkan
- Deputy Commissioner, Thane Municipal Corporation as authorized by the Municipal Commissioner

Grievance Redressal Committee (Pune City)

- Chairperson: Deputy Commissioner at the rank of Deputy Collector in the office of Divisional Commissioner, Pune as authorized by Divisional Commissioner, Pune
- Joint Chief Officer, MMRDA, Pune
- Deputy Commissioner, Pune Municipal Corporation as authorized by the Municipal Commissioner"

(c) We are of the clear opinion that it is high time that both the AGRC and GRC hold regular sittings. Further, multiple Committees should be constituted by categorizing the territorial jurisdiction of such Committees, as permitted by the recent amendment to Section 34A, which provides that one or more Committees may be constituted.

(d) The AGRC needs to have a Chairman, who is a former Judge of the High Court and a Judicial Member (Retired District Judge), considering the nature of the disputes being taken to the AGRC arising from orders passed by the Chief Executive Officer, which involve adjudication of civil rights, including rights touching on the constitutional guarantees under Articles 14, 21, 19(1)(g) and 300A of the Constitution. The reason being that appropriate adjudication by the AGRC concerning such valuable rights of the parties ought not to generate further litigation.

(e) Similarly the GRC needs to have a Chairman to be a retired District

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Judge and a Judicial Member (Retired Civil Judge) alongwith other members.

(f) At the level of the AGRC, an endeavour needs to be made to bring about a satisfactory resolution, thereby furthering the object and intent of the legislation, since litigation on such issues is neither conducive to the interests of the slum dwellers nor to the State Government, the authorities or the appointed developer and would, in fact, be counterproductive to the redevelopment of slums.

(g) The AGRC as also the GRC are required to decide Interim Applications expeditiously and, in any event, within a period of 15 days from the date of filing of the Interim Application, depending upon the urgency of the matter. Accordingly, the AGRC and GRC need to have more permanent Benches headed by retired Judicial Officers. The suggestion is for the Committee to consider amendment of the provisions of the Slum Act on such issues.

VII Disputes on Annexure II :

(i) It is routinely observed that disputes relating to the eligibility of slum dwellers, ultimately reflected in Annexure-II, generate substantial litigation. Robust statutory mechanisms and methods now being formulated by slum dwellers, along with the certification of the slum, require systematic institutional efforts to address disputes concerning the eligibility of slum dwellers so that such

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disputes can be resolved without generating litigation.

VIII Pool of Houses :

(i) We are in agreement with the submissions made by Mr. Rustomjee, appearing for the deceased intervenor Mr. Shirish Patel, that the existing approach of providing free housing ought to be reconsidered. The notion that a poor family residing in an urban area must necessarily be provided with free housing needs to be re-examined. The submissions that every household should contribute towards the cost of its own constructed house, and that subsidized housing loans should be made available for this purpose. Further, for families who are unable to afford EMIs towards the construction cost, housing may be provided by the SRA on a Leave and Licence basis, as suggested in the Afzalpurkar Committee Report.

(ii) In the event, the tenement is allotted free of cost, there should be a preferential right in favour of the Government/SRA in the event of sale in the open market. Such sale should be permitted only in favour of the Government or the SRA at the subsidized construction cost, or at such price as may be determined to be payable by the slum dwellers to the State Government. This would enable the allotment of tenements to persons genuinely in need by enhancing the pool of public accommodation, which may be made available to people who need it.

(iii) In respect of land owned by the Government, such ownership ought to be transferred to a Community Land Reserve, whereby the land is reserved for a

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specific purpose so that it may always be used exclusively for low-income housing. The sale of such land along with the structures thereon ought not to be permitted. The Community Land Reserve should be managed by non-private bodies that may be created by the State Government.

IX Pool Public Housing :

(i) This Court in the decision of **Jilani Building,** has echoed the need for the State Government to formulate a policy to create a substantial pool of houses, which can be made available, on payment of compensation, to persons who intend to migrate to cities and occupy such houses by paying the prescribed compensation to the State Government. This would reduce the encroachment on public and private lands and ensure that persons in need of housing are able to reside in decent houses.

(ii) With the development of mass transportation facilities, a significant portion of the existing population who reside in the city are spread across distant suburbs, for whom commuting is not a major impediment. If this be the position for those residing in legitimate housing in suburban areas, the question arises as to why "*in situ*" rehabilitation on encroached public land ought to be at all permitted. This issue requires urgent reconsideration and total discarding of the provisions of *in situ* houses by encroachment on public land under the garb of slum redevelopment as noted hereinabove. It is also for such reason that there is a need to create substantial public housing by appointing an Expert Committee to estimate the housing needs of the city and to identify land on which mass

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housing facilities can be developed.

X Financing arrangement in regard to redevelopment of slum :

(i) Large number of disputes have reached the Court concerning financial arrangements undertaken by developers in the implementation of slum redevelopment schemes. At the outset, it may be observed that financing arrangements in respect of slum redevelopment on private land may not pose significant difficulties. However, where slums are to be redeveloped on land belonging to the State Government or public bodies such as the Municipal Corporation, MMRDA and MHADA, then certainly a specific and a rigorous regulatory control is necessary. It cannot be overlooked that developers are appointed by societies of slum dwellers, while the lands on which such redevelopment is undertaken are public lands. In such circumstances, the issues concerning the mortgage of public land to financial institutions or other financial arrangements between the private financiers and developers must be regulated by the Slum Rehabilitation Authority.

(ii) The nature of the litigation which has reached the Court has shown very serious disputes arising out of the financial arrangements. The slum dwellers are completely unaware of and/or alien to, the ground realities of these financial transactions. Many financiers have become co-developers and are required to be so recognized by the Chief Executive Officer of the Slum Rehabilitation Authority, whereby in such a situation, one party may only have a financial interest while the other party is the party would actually undertake the slum

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redevelopment. Any dispute arising *inter se* between such parties or among multiple parties to such arrangements, have severely affected the implementation of the slum redevelopment scheme. Either the finance being not made available or the parties resort to litigation, arbitration, resulting in a stay on redevelopment of the slum. The slum dwellers as also the SRA find it difficult to have any control over such situations as the only tool available with the CEO-SRA is to remove a developer under Section 13 of the Act in the event a slum project is being delayed. The funds brought by one of the parties into the slum scheme become the subject matter of disputes and in such eventualities, things go to the extent of the developers indulging into wholesale trading in the slum scheme and/or in fact dealing in such slum scheme by resorting to a manner to bring another developer or financier into the picture, thereby changing the entire original complexion of the slum scheme. These are complex disputes arising in disputes which have reached the Court (see: **New Janta SRA CHS Ltd. vs. State of Maharashtra**[54] and **Paramvir Developers Private Ltd. & Ors. vs. Slum Rehabilitation Authority and Ors.**[55]). The Court has taken a view that insofar as this financial arrangement is concerned, it is the dispute between two private parties and which would be the subject matter of litigation to be adjudicated in a Civil Suit in view of the fact that the Chief Executive Officer would not have any control on *inter se* financial disputes between two parties and the role of the Chief Executive Officer, SRA would be limited to the effective and expeditious implementation of the slum scheme. No doubt security deposits / bank

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guarantees are taken from the developers / financers. It is, therefore, necessary that appropriate statutory/regulatory control needs to be introduced, looking at the complexity of such situations so that the slum schemes which are already in process of being implemented are not entangled in such disputes and the slum dwellers do not suffer on such count.

XI The requirement for a maximum density cap for rehabilitation to be fixed:-

(i) This issue is of concern because slum tenements which were originally spread across a larger land parcel would be required to be rehabilitated in a vertical manner through the construction of a slum rehabilitation building. For instance, if a plot of slum measuring 10,000 square meters contains 1000 slum tenements, and such slum tenements are to be rehabilitated vertically in a newly constructed building, an important question arises as to what portion of the land would be required for the rehabilitation of the slum dwellers, and what portion would remain available to the developer for free-sale development in the open market?

(ii) The statistics in such a situation would be significant. Under normal circumstances, not only would the 1,000 existing slum dwellers be rehabilitated on the same plot, but the land would also bear the additional burden of free-sale tenements constructed by the developer after completing the rehabilitation component. This situation inevitably raises the issue of density of the population, as the same plot which was originally occupied by 1,000 slum

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dwellers would eventually accommodate a substantially higher population due to the addition of free-sale residential units.

(iii) Very serious concerns are raised on behalf of the parties as noted by us in recording their respective submissions. There ought not to be any vertical slums, as also the living conditions which are being made available on redevelopment in such high rise slum buildings are commensurate with the normal human requirements of appropriate tenements, which would cater to health, hygiene, light and ventilation and other amenities like open spaces, children's play area, parking etc. to be made available not only to the redeveloped building, but also to the free sale component which is being constructed. The object and intention are not to have congestion or any unmanageable situation insofar as the realistic living space and issues are concerned and more particularly looking at the future of this development. There cannot be an unjust enrichment of the free sale component at the cost of any compromise on the part of the slum dwellers who are not in a dominant position or are in fact in a weak, exploitative and oppressed vulnerable position.

(iv) Also a reference is made to the National Building Code, 2016, (NBC 2016) (Part 3, Section C-2.4.2) which specifies 500 dwelling units per hectare as the maximum density on a plot for 15 sq. metre apartments in four storey walk-ups. The NBC 2016 does not specify which amenities have to be within a walking distance of the 500 dwelling units per hectare as an essential aspect of the housing construction.

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(v) Mr. Seervai proposes that the maximum density for rehabilitation be fixed at 600 tenements per hectare, which would be consistent with the maximum density of 450 tenements per hectare as specified in DCPR 2034 for general housing projects. This would help safeguard the interests of inhabitants by ensuring that basic amenities in rehabilitation areas are maintained in line with standards applicable to normal redevelopment under the DCPR 2034.

(vi) The suggestion is also that slum TDR needs to be utilized exclusively within slum redevelopment projects and not to be utilized in any other project as prevalent. Hence, the suggestion is that the sale and purchase of TDR be restricted for use in other slum redevelopment projects to maintain uniform density across various slum pockets which are currently unequal. Also, a suggestion is made that the SRA could operate a slum TDR Bank for ease of TDR encashment, sale and regulation of its pricing. The practice of concessions and premiums granted under discretionary power of the CEO-SRA needs to be immediately stopped, so as to facilitate in alienating the vexed issue of apportionment, is the significant suggestion of Mr. Seervai.

(vii) The suggestion is that the essential amenities to be provided on site shall be first defined for the size of the population to be rehabilitated on that site and on no account should the same be compromised. Adequate natural light and ventilation, particularly to the lower floors and the space between buildings for facades that have windows, shall not be compromised. In this regard, NBC 2016 (Part 3, Section 8) which provides for clear guidelines, must be adhered to. If the

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conditions which are so prescribed in regard to adequate social amenities, density, light and ventilation are not feasible, then in such a case some families shall be relocated on adjacent vacant land or in any other redevelopment site which is less over-crowded. Thus, specific regulations in regard to preventing overcrowding of the slum dwellers and/or any congestion which is vitally affecting the basic human rights of the slum dwellers are matters of prime concern, on which there needs to be appropriate regulations, which presently are lacking. Thus, a more systematic and organized approach to the redevelopment of slum must be taken, as also it should be scientific and well-planned.

(viii) Thus, the suggestion is that a maximum tenement density needs to be provided by suitably amending DCPR 33(10), keeping in view the principles of sustainable development and to ensure that rehabilitated slum dwellers are provided access to basic amenities. Also that the regulation should prescribe a maximum density in line with DCPR 30(B) and the National Building Code of India, 2016, rather than prescribing a minimum tenement density. Thus, the need would be to have a re-look at the provisions of Regulation 33(10), VII, 3.8 which is extracted hereinbelow:-

> "3.8 Maximum FSI Permissible FSI that can be sanctioned on any slum site shall be 4 or sum total of rehabilitation BUA plus incentive BUA whichever is more with Minimum Tenement Density of 650 per Net Hectare. Due to local planning constraints and viability of the Slum Rehabilitation Project, the tenement density norms of 650 per net hectare may be reduced upto 25% by Chief Executive Officer, SRA subject to minimum tenement density of 500 per net hectare, In such cases, maximum permissible in-situ/total FSI shall be restricted to sum of rehabilitation and incentive BUA which may be generated in the scheme after such relaxation of tenement density. The computation of FSI shall be done for both rehab and free-sale component in the normal manner, that is giving benefit of what is set down in Regulation No. 31(1). While the areas referred in sub-

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regulations No 6.6 and 8.2 of this Regulation shall not be included for computation of FSI the said areas shall be included for computation of the rehab component. In all cases where permissible in-situ FSI cannot be utilised in situ the difference between permissible FSI and that can be constructed in-situ, will be made available in the form of TDR in accordance with provisions of Regulation No. 32. Provided that permissible in-situ FSI shall be as below.

Provided that the aforesaid FSI shall be exclusive of the fungible compensatory area admissible under the provision of Regulation 31(3).

Criteria	Permissible in situ FSI
Access road of 9.0 m. and above but less than 13.0 m.	3.0 or up to the sanctioned FSI of scheme, whichever is higher, subject to the observance of building height under reg. 19(2)
Access road of 13.0 m. and above	4.00 or up to sanctioned FSI of the scheme, whichever is higher. Relaxation in marginal open spaces as required under regulation 41(5)(a)(iii) shall be granted by CEO (SRA) in case of demonstrable hardship. However, minimum Joint Open Space of 9 m for buildings height above 32 m & up to 70 m and 12 m between two adjacent buildings for buildings having height above 70 m but below 120 m shall be insisted. For buildings having height above120 m, joint open space between two adjacent buildings shall be 15 m. However, CEO (SRA) shall in case of hardship relax it to 12 m after recording reasons in writing. The relaxations granted shall be subject to compliance of requirements of CFO's NOC.

XII Selection of Developers/Appointment of robust developer and quality of construction:

(i) Today developers are appointed by the slum society. The whole edifice of the slum redevelopment is on the developer who needs to be a person possessing appropriate expertise and credentials demonstrating achievements in the construction of rehabilitation buildings and free-sale buildings. Accountability in construction, particularly in regard to quality and compliance with building norms, requires strict implementation. There ought not to be creation of vertical slums, as noted hereinabove. For this reason, a Special Committee of the Slum

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Rehabilitation Authority to be constituted, is the need of the hour, to monitor the quality of construction in respect of any construction under the slum rehabilitation scheme. Such Special Committee, as may be constituted, must ensure appropriate certification of the quality of construction, particularly considering that the quality of construction of rehabilitation buildings is often not adequately maintained by developers.

(ii) There cannot be any compromise in the quality of construction of rehabilitation buildings merely because the buildings or tenements therein are allotted free of cost. This is an unacceptable approach inasmuch as, irrespective of whether the building is a slum rehabilitation building or a free-sale building, all norms of construction and standards of quality must be strictly complied with. Certificates of quality and accountability of the developers so appointed must be ensured and recognized for a minimum period of 10 years, which is the least that can reasonably be expected.

(iii) Considering the nature of slums, redevelopment, and development, which involves providing tenements to slum dwellers as well as constructing free sale tenements, it is essential that slum redevelopment projects be undertaken by developers with vast experience and a proven track record in implementing such projects. A basic criteria, as suggested by Dr. Sathe, learned senior counsel appearing for NAREDCO West Foundation, is that developers bidding for such slum schemes be selected based on the size of the slum, built-up area, project cost and density, as specified in clause 3.1.2 (a) of the DCPR. Only those developers who have successfully completed projects of similar scale and possess the required

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minimum net worth would be considered. The practice of by-night developers, appointed by slum dwellers or societies but actually executing slum schemes through other developers, should be discontinued. The SRA should adopt a digitalized platform, similar to the MCGM system, for sanctioning redevelopment proposals, including establishing a single window clearance mechanism.

XIII Apportionment of Slum Land

(i) In regard to vexed issue of apportionment of slum land between rehabilitation area and sale area, there is no statutory formula or percentage stipulated for bifurcation of land and area between the rehab and sale area under the Slum Act. Thus, any fixed ratio of apportionment would create inflexibility in making the slum rehabilitation scheme further unviable. To overcome this and the situations where the developer has to provide buildable reservations and shifting of reservations under Regulation 17(3)(d) of the DCPR 2034 read with regulation 9 of the DCR, freedom of planning is suggested to be the need of the hour to ensure smooth implementation of slum projects.

XIV Identification of slum dwellers and cut-off date freeze:

(i) The submissions as urged before the Court by the different stakeholders lead to an inescapable inference that the Slums Act has failed to achieve its objective, as there is no sign of the slums in such a large metropolitan city like Mumbai or elsewhere, being eradicated. In fact, the slums in all the cities continue to increase, thereby posing insurmountable challenges and giving

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sleepless nights to the town planners. This, considering that illustratively, for a city like Mumbai, majority of the lands are occupied by slums, and the eradication and/or redevelopment of such slum areas has not been achieved for decades. This itself shows that there is something amiss in the legislation and its implementation, as also in the policy of the State Government for the protection of slums, including those on public lands, and making tenements available to the slum dwellers free of cost in redeveloped premises or at subsidized rates, which are available at Rs. 2.5 lakh per tenement. The suggestions in such context are significant which are as under:-

(a) There needs to be an absolute freeze on the cut-off dates, which cannot be extended by way of any circular and should not be further revised. Accordingly, any slum established after the fixed cut-off date shall not be recognized, and its occupants shall not be eligible for rehabilitation. In accordance with the applicable legal provisions, such occupants are liable to be removed from the land, whether it is private or public.

(b) Non-protected slum dwellers can be offered housing from the public housing pool, if available, otherwise, they must secure housing in the private sector like any other citizen. The reason is that it is not justifiable for population below the poverty line, or those who are homeless in relation to the city (as opposed to rather than their original place of residence), to move into cities, occupy land illegally, form slums and thereafter benefit from government policies. Such a policy that attracts additional population inflow under such circumstances is

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unacceptable.

(c) Also, the suggestion is that if a person considers migrating to a city based depending on his economic capacity, either public housing should be made available or the person must access housing through the open market. The practice of providing free or subsequent tenements to encroachers is unconstitutional and should history. There is an evident laxity in government policies. Today, the State Government, as well as public bodies, are virtually landless in cities like Mumbai, which have attained saturation in terms of new construction, as is also the case in other major cities in the State of Maharashtra. It is, therefore, an urgent necessity not to formulate a 'robust policy' that succumbs to social or other extraneous pressures by encouraging encroachment through subsidized housing, but instead to adhere strictly to constitutional principles in policy-making on such issues. This includes reducing population pressure on limited and secure lands and implementing recovery of lands from encroachments where slum rehabilitation schemes have not commenced, and the land is still occupied by slums as held by the Division Bench as far back as in February 2022 in **Jilani Building** where the Court had already ordered a freeze on any redevelopment of slums on government and public land.

(d) We reiterate that, under the guise of slum rehabilitation, the use of public lands solely for residential and commercial development contravenes constitutional morality and disregards every principle the

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Constitution recognizes for managing State resources. The magnitude of the issue, where hundred of acres of public land have already been removed from the public pool, is not only a clear warning, but a serious alarm. Yet for reasons not known to the law, this has been consistently overlooked by policy makers. We say so that any rehabilitation to any eligible extent can be recognized. However, such mass illegality, and the fact that there will be no freeze of the slums of the State, in fact itself, has created a chaotic situation, more particularly in respect of international cities like Mumbai, and irreparable damage of such nature happening with open eyes, nurtured as it is, has contributed to ruin. Cities like Mumbai today stand in such a condition. It is already too late; however, effective actions, if taken at least within a decade, can improve things, and there can be some hope of the dark clouds of planning receiving some ray of sunshine. However, this requires political will, it requires executive's will, and it also requires adherence to the rule of law by the citizens. In the event of a single mismatch not being attended to, the chaos which commenced a decade back on such issues would continue to haunt generations to come, converting the city into what only time would tell. Thus, viewed from any angle, unless there is substantial will to improve the situation through a complete revamp of the policies, there may be little scope for the ideals of the eradication of slums to be achieved.

(e) **Why for decades together there is no redevelopment of slums in certain areas**? There is an urgent need to identify those areas where, for

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more than 2 to 3 decades, slum redevelopment has not occurred due to the non-feasibility of developing these lands. In such cases, slum dwellers would necessarily need to be evacuated and resettled elsewhere. For example, all the slums surrounding the "Mumbai Airport" and many hilly areas in Mumbai fall into this category. These slums render an international image to Mumbai to be a city of slums although it is commercial capital of the country. High-rise construction in the vicinity of the airport is restricted due to air traffic control regulations. If this is the situation, should the government adopt a selective approach, allowing slum dwellers in such areas to continue living in slums for decades together, even though these lands are legally prohibited from development? This situation results in a disturbing state of affairs in an international city like Mumbai. Any international or domestic traveler arriving in the city would immediately see acres of land in the vicinity of the airport occupied by slums, rather than developed in a planned and safe manner. There cannot be selective redevelopment of slums. This has failed the object of the Act being achieved.

(f) This state of affair demonstrates a complete failure in the implementation of the Act, as well as selective enforcement, indicating the absence of any clear policy or will to cater/address these areas. In such context, a policy is required to recover lands in the vicinity of vital installations, such as the airport and other areas, where the development of slums is automatically restricted. Action must be taken to relocate such

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slums, rather than attempting *in-situ* redevelopment, which is itself impermissible, even if it involves large populations that constitute a significant vote bank for the constituents. [Refer to **Abdul Majid Vakil Ahmed Patvekari vs. Slum Rehabilitation Authority & Ors.** (supra).] In saying this, the observations of Dipankar Datta, J. (as his Lordship's then was) concluding judgment in **Jilani** need to be remembered which we have extracted herein, which read thus:-

> "**113.** In Lewis Carroll's classic *"Alice in Wonderland"*, Alice was so surprised after entering the rabbit hole that she exclaimed "curiouser, curiouser". Although 'curiouser' is no part of English vocabulary, Alice's utter surprise was sought to be highlighted by the author by preferring an unconventional 'curiouser' to the grammatically correct 'more curious'. Alice would have certainly exclaimed "curiouser, curiouser", had she descended in this wonder city, Mumbai, and noticed the stark urban inequalities resulting from the exceedingly sharp contrast between the wealthy and the poor, the opulent and the frugal. While the affluent enjoy lavish life-styles and show-off their new expensive acquisitions, the whole lot struggling day long for securing their daily share of meal lack proper housing facilities and even the basic of civic amenities. The gap between the "haves" and the "have nots" is so pronounced that no matter whatever welfare measures are thought of by social, political and economic reforms, it may not be possible in the near future to achieve even a token equality. No wonder, as far back as in 1956, a melodious duet of two extremely popular voices of Bollywood cautioned that it was difficult (*mushkil*) to live in (erstwhile) Bombay and that one would have to try hard to find a heart (*dil*) here.
>
> **114.** Erstwhile Bombay, now Mumbai, is home to people coming from across the country in search of livelihood. This migration has not only added to the dense population, making Mumbai the most populous Indian city, it has immensely burdened the housing sector so much so that 41.3% of the population live in slums. Anyone taking an aerial view of Mumbai, also called the city of dreams, would be fascinated by the swanky sky-scrapers but disheartened by the structures at the foot of such sky-scrapers covered mostly by blue tarpaulin covers. These are the densely populated single-storey or double-storied slums accommodating almost half of the population, which co-exist as neighbours with real estate developments of extravagance. Despite these pronounced inequalities, people here seem to have accepted that this is the way life should go on. Mumbai happens to be the financial capital of this great nation and the extent of developments that one can see having taken place in Maharashtra are significant. The annual budget of the Municipal Corporation of Greater Mumbai is more than

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several mid-sized States of India. It is, therefore, not unreasonable to assume that sufficient financial resources are at its disposal, and one would have expected the Government and the Corporation, whoever was at their helm, to adequately plan development by making appropriate budgetary provisions for affordable housing projects for the not-so-fortunate working class of people living in slums. Regrettably, instead of moving in the direction to have a planned and sustainable development, the successive Governments together with the Corporation seem to have unabashedly allowed mushrooming of slums at the instance of squatters by encouraging them not only to encroach more and more of public property but, simultaneously, by enacting laws to protect such unauthorized occupation. Enacting laws to further the interests of the weaker sections of society is the obligation of every State in terms of Part IV of the Constitution, and any move in that behalf ought to and must be welcomed. People living in slums do equally have a right to decent living conditions, which can be ensured by relocating them with proper housing facilities. However, a vicious nexus involving high-profile personalities, bureaucrats, builders and slum lords has created a situation where public property is first encroached without resistance being provided by the law-enforcing agency, followed by a declaration of slum, gradually progressing to redevelopment by builders ostensibly for slum dwellers but really to further the interests of the "haves". In the garb of legislation, in a novel manner, a fraction of the population, including holders of public offices, have continued to prosper by achieving their goals through impure means, which are nothing short of betrayal of the trust that the people of this region have reposed in those responsible for able governance. While it was the need of the hour to make housing projects a reality more effectively and with empathy, what has been laid bare is the apathy and indifference to cater to the needs of the hapless, coupled with a complete lack of sensitivity. The reasons are not far to seek. Quite contrary to the ideals and values embodied in the Constitution, which lay down the basic framework of the social and political structure of the country and set out the objectives and goals to be pursued by the people in a common endeavour to secure happiness and welfare of every member of society, and despite taking oath to uphold the laws, actions of those in power and authority are now invariably driven by political motivations or other oblique considerations. No wonder, the casualty is the compassionate Constitution of ours."

(ii) The preparation of Annexure-II, which determines the eligibility of slum dwellers, has been found to be extremely time-consuming, complicated, and litigious. A robust scheme, to be implemented by specialized officers of the SRA, needs to be formulated for determining eligibility of the slum dwellers for inclusion in Annexure-II. This scheme may use technologies such as GIS,

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biometric systems, or an automated annexure system, and once eligibility is determined, it must be frozen. In addition, further additions to Annexure-II or attempts at re-survey needs to be discouraged. The database of eligible slum dwellers must be published and notified on the official website of the municipal corporation. Correct data, certified in soft form by the officer who determines eligibility, with the counter-signature of the appropriate authority, shall always be maintained. All supporting documents must also be preserved and made available, area or project-wise, on the official website. The rationale for this is to ensure transparency and accountability, the officer who determines eligibility and the concerned persons must have clear records of how a particular slum dweller qualifies for free or subsidized accommodation, especially in prime locations. No other person, forum, court, or state authority should be left unaware of the basis for eligibility and the benefit conferred. The regime of circulars govering such issues needs to be replaced by a Statutory Mechanism.

XV Maintaining of town planning reservations:

(i) It is essential to free up amenity space by relocating a slum from one plot to another plot and undertaking a joint/cluster redevelopment of the slums. The approach should be to ensure that the amount of open or designated reserved land, to which such a cluster redevelopment scheme would apply, is preserved and made available. SRA projects should not be implemented at the expense of open spaces. Thus a policy in this regard on prioritizing public spaces on par with public projects and providing incentives for clearing and maintaining open spaces via different methods like amalgamation of slum rehab projects on open

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lands with other slum schemes, has been suggested.

Conclusion

238. We are in complete agreement with Mr. Darius Khambata, Mr. Sharan Jagtiani, Ms. Naira Jeejeebhoy, learned amici and the learned Counsel appearing for the different stakeholders on the valuable inputs given by them as succinctly captured in the chart of suggestions as prepared by the learned Amici which shall form part of the judgment as an "**Appendix**" as attached to the judgment.

239. In light of the aforesaid observations and the mandate of the Supreme Court in **Yash Developers** (supra), on the need to review the working of the Slum Act to identify the causes of issues highlighted by the Supreme Court in paragraph 56 of the judgment, we have made the aforesaid endeavour to record the concerns and the suggestions.

240. In the light of the above discussion, we direct the State Government to constitute an "Expert Committee" having adequate and appropriate members for conducting a performance audit of the Act, so as to make the Slum Act more effective on the issues discussed in this judgment, with the only objective of enabling the Government to achieve the distant dream of slum-free Mumbai, as well as other major cities in the State of Maharashtra.

241. The committee to be appointed by the State Government for reviewing the performance audit of the Slum Act shall comprise of experts in town planning, two of whom shall be one representatives of the Municipal Corporation of Greater Mumbai and one representative from the Pune Municipal

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Corporation, and one representative from the Directorate of Town Planning, Government of Maharashtra. It shall also include two independent architects having expertise in building construction and town planning.

242. Further, the committee shall include the Principal Secretary of the Urban Development Department and an Additional Principal Secretary, as may be nominated by the Chief Secretary, who possess expertise in such matters. The committee shall also comprise of two expert public representatives having specialized knowledge and expertise. Inclusive of such members, the strength of the Committee be fixed by the State Government in Town Planning.

243. Such committee shall be constituted within a period of four weeks from today. The State Government shall thereafter consider the recommendations of the committee shall take a decision as it may find appropriate, in the light of the report which may be submitted by such Committee. An endeavour be made by the Committee to make its report within a period of ten months.

EPILOGUE

244. While parting, we may observe that the present proceedings, as entrusted to this Bench under the orders of the Supreme Court in Yash Developers (supra) is one of its kind, (*sui generis*), wherein every possible stakeholder has participated. The platform of the present proceedings was thus available to the slum dwellers, developers, citizens, NGO's, associations, statutory authorities, individuals, charitable institutions etc. This is wholly unprecedented, and was possible only because of the robust vision of their Lordships of the Supreme

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Court amplifying the concept of audit of a legislation by Constitutional Court, on the burning issues as reflected in the observations in Yash Developers (supra). We have tried to reflect on some of the major issues, albeit there are many more issues as canvassed on behalf of the parties, which we have set out in detail, so that at any point of time, an easy reference of such issues is available along with the valuable overall suggestions as made by the learned Amici. Our observations/reflections, hence, be not taken as something final or conclusive, it is for the Committee to be appointed to ponder on such issues, which would also consider the different perspectives as made on behalf of the stakeholders.

245. The problems which are discussed certainly reflect an abysmal progress of the ideals of town planning expected of an international city like Mumbai, when large areas are still slums. Any town planning which does not sail with the tide of time is questionable. The official machinery under the statutory mechanism despite all the efforts as urged on behalf of the SRA, has failed to eradicate the slums to fulfill the dream of the year 1971, to convert the city into a slum free city. The continuous requirements of planning and in that regard, the expectations and the rights of the citizens, who live in this city, in our opinion, need to assume hightest importance. Hence, there is certainly a need for area/zone wise, systematic and a scientific approach, to be adopted in a phased manner to do away with the slums in Mumbai. The task is herculean but not impossible, provided those who exercise authority and power, have committed determination, a robust and genuine willingness to achieve public good, on this important area, in the city's march in the 21st century. On such conspectus, we

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feel that there is need for the Government to consider having a specialized Corporation/Body tasked with planning and redevelopment of slums, with all specialized and scientific machinery to supplement the overburdening of the Chief Executive Officer and the existing machinery under the Slums Act. Considering the existing situation, we doubt whether the Slum Act with the continuous amendments it has seen, can still be considered to be any fulfilling ray of hope. This more particularly when for the last 55 years, the objective of a ad hoc enactment like the Slums Act, has lagged far behind, in achieving its objects. However, it is for the government to decide on such issues. At this juncture, with the deep sense of belonging to the city of Mumbai, we are reminded of the following couplet, from a timeless classic, which is most befitting:

"ऐ दिल, है मुश्किल जीना यहाँ
ज़रा हट के, ज़रा बच के
ये है Bombay मेरी जाँ"

Our Gratitude:

246. The present proceedings were argued before us by the learned counsel appearing for the different stakeholders, demonstratively reflecting the distinguished standards of the illustrious Bar of this Court. The proceedings were argued in a most cordial manner, considering it to be a social cause, of immense public welfare. We have the highest appreciation for the role played by each and every counsel who has participated in the present proceedings.

247. We express our profound gratitude for the herculean efforts of Dr. Birendra Saraf, along with Mr. Vaibhav Charlawar and Mr. Jagdish G. Aradwad

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(Reddy) who represented the Slum Rehabilitation Authority and the State Government. We also express our deep gratitude to the monumental effort of Mr. Darius Khambata, Mr. Sharan Jagtiani learned senior advocate along with Ms. Naira Jeejeebhoy, learned amici. We also appreciate the valuable assistance of learned senior advocate Ms. Gayatri Singh, Mr. Mihir Desai, Mr. Pravin Samadani, Dr. Milind Sathe (now learned Advocate General), Mr. Rajiv Kumar, Mr. Shiroz Rustomjee, senior advocate, Mr. Kirti Munshi and Akash Rebello and all other learned counsel, who have represented their respective stakeholders their contribution in regard to the present cause shall always remain invaluable.

248. We accordingly conclude the present Suo Motu proceedings in the aforesaid terms.

249. In view of disposal of suo motu proceedings, Interim Applications in suo motu proceedings would also stand disposed of.

250. All other Writ Petitions/proceedings be placed before the Regular Bench.

(ADVAIT M. SETHNA, J.) (G. S. KULKARNI, J.)

P. V. Rane

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APPENDIX

IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION
SUO MOTO WRIT PETITION NO. 1 OF 2024

IN RE: PERFORMANCE OF AUDIT OF THE MAHARASHTRA SLUM AREAS (IMPROVEMENT, CLEARANCE AND REDEVELOPMENT) ACT, 1971.

…Petitioner

Versus THE STATE OF MAHARASHTRA & ORS.

…Respondents

CROSS REFERENCE TO TABLES AND AFFIDAVITS FROM WHICH SUGGESTIONS HAVE BEEN CONSOLIDATED

Sr. No.	Ref. No.	Stakeholder	Ref. in Compilations of Affidavits
Suggestions provided by Stakeholders in Tabular Template			
1.	**T-1.**	Bright Ability and Awareness Foundation	*(No affidavit)*
2.	**T-2.**	Nagardas Dharsi Bhuta Charities	Sr. No.13, Pg. 491-510
3.	**T-3.**	Skycon Infrastructure	Sr. No.12, Pg. 479-490
4.	**T-4.**	NGO Alliance for Governance and Renewal	Sr. No.18, Pg. 767-1156
5.	**T-5.**	A. H. Wadia Trust	Sr. No.23, Pg. 1343-1358
6.	**T-6.**	On behalf of Slum Dwellers	*(Consolidated table filed on behalf of (i) to (xi) below)*
7.	**(i)**	Hussain Indorewala	Sr. No.2, Pg. 154-200
8.	**(ii)**	Simpreet Singh	Sr. No.1, Pg. 50-153
9.	**(iii)**	Shubham Kothari, Jan Haqq Sangharsh Samiti	Sr. No.3, Pg. 209-276
10.	**(iv)**	Amita Bhide, School of Habitat Studies, TISS	Sr. No.21, Pg. 1243-1298
11.	**(v)**	Syed Haider Imam	*(No Affidavit)*
12.	**(vi)**	Medha Patkar	Sr. No.25, Pg. 1392-1487
13.	**(vii)**	Sudhesh Gaikwad, Indira Nagar Slum	Sr. No.4, Pg. 321-349
14.	**(viii)**	Hiraman Pagar, Ghar Haqq Sangarsh Samiti	Sr. No.5, Pg. 350-364

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15.	**(ix)**	Prakash Kumbhar	Sr. No.6, Pg 365-368
16.	**(x)**	Shweta Damle, Habitat and livelihood Welfare association	Sr. No.7, Pg 369-379
17.	**(xi)**	Ranjan Tambe, Ekta CHS	Sr. No.14, 511-604
18.	**T-7.**	NAREDCO West Foundation	Sr. No.26, Pg. 1488-1568
19.	**T-8.**	CREDAI MCHI	Sr. No.24, Pg. 1359-1391
20.	**T-9.**	SRA Advocates Bar Association	Sr. No.20, Pg. 1215-1242
21.	**T-10.**	Shree Azad Society	*(No affidavit)*
Suggestions provided by Stakeholders only in Affidavit Format			
22.	**A-8**	Shirish Bhailal Patel	Sr. No. 8, Pg. 380-401
23.	**A-9**	Ajit Hemraj Jobunputra, Alert Citizens Trust	Sr. No. 9, Pg. 402-411
24.	**A-10**	Vidnyay Shyan Daware, SRA Zopdirakshak Sena	Sr. No. 10, Pg. 412-438
25.	**A-11**	RERA practitioners Welfare association	Sr. No. 11, Pg. 439-478
26.	**A-15 r/w A-27A A-27B A-27C**	Nivarahakk Suraksha Samiti	Sr. No. 15, Pg. 605-706; Sr. No. 27A to 27C, Pg. 1567-1705
27.	**A-16**	Ramesh Makhija	Sr. No. 16, Pg. 707-715
28.	**A-17**	Vinay Hule	Sr. No. 17, Pg. 716-766
Filings by Stakeholders in which there are no Suggestions			
29.	**A-19**	Slum Rehabilitation Authority	Sr. No. 19, Pg. 1157-1214
30.	**A-22**	Lakdawala *(IA for stay of notification)*	Sr. No. 22, Pg. 1299-1342

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IN RE: PERFORMANCE OF AUDIT OF THE MAHARASHTRA SLUM AREAS (IMPROVEMENT, CLEARANCE AND REDEVELOPMENT) ACT, 1971.

…Petitioner

Versus

THE STATE OF MAHARASHTRA & ORS.

…Respondents

SUGGESTIONS ON IDENTIFICATION AND DECLARATION OF LAND AS SLUM

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1.	Categorisation and declaration of public open spaces reserved for recreational use as "slums" under the Slum Act Perpetuation of the problem of overcrowding in slum areas and failing to remedy overcrowding in rehabilitation premises/areas on account of the complete failure to maintain adequate, accessible public open spaces	Encroachment on reserved public open spaces by slum dwellers and a failure of the State machinery to free up the public open spaces	**REGULATION 17(3)(D)(A)(2) OF THE DEVELOPMENT CONTROL AND PROMOTION REGULATIONS FOR GREATER MUMBAI, 2034 (DCR):** (i) Any plot/layout having area under non-buildable/open space reservations admeasuring up to 500 sq. m shall be cleared by shifting the slum-dwellers from that site. (ii) Where the area of site having non-buildable/ open space reservation, is more than 500 sq. m such sites may be allowed to be developed for slum redevelopment subject to condition that the ground area of the land so used shall not be more than 65% of the reservation and leaving 35% rendered clear thereafter for the reservation.	**INCENTIVISE THE CLEARING AND MAINTENANCE OF RESERVED PUBLIC OPEN SPACES:** One way to achieve this is to allow for the amalgamation of slum rehabilitation projects contemplated on open spaces with other slum rehabilitation schemes in the same ward (which are not on open spaces). Utilization of FSI from the area of the public open spaces designation that has actually been encroached on may be permitted on other proposed slum rehabilitation schemes in the ward/area, whether or not the same are on a contiguous parcel of land. In lieu of the same, the cleared plot would stand surrendered to the MCGM. The provision of such TDR/FSI would then allow the designated reserved open spaces to be cleared and maintained as public open spaces. **TREATING THE CREATION/RESERVATION AND MAINTENANCE OF PUBLIC OPEN SPACES AS**	The proposed measure may be implemented by an administrative notification/ circular under the provisions of Regulation 33(10) declaring all reserved public open spaces as vital public projects.	Under the provisions of Regulation 33(10), sub-para 10 of the DCR 2034, it is permissible for the SRA to club two or more rehabilitation projects. This provision may be invoked in order to club rehabilitation schemes so as to ensure the preservation of reserved public open spaces.	T-4	SRA is considering a cluster redevelopment approach in which two or more slums present within a ward / within a distance of 5 kms with the adjoining ward can be redeveloped and rehabilitated at one place. This would free up the other plots which have been considered a part of the cluster redevelopment. This approach would enable redevelopment of slums which are currently not feasible due to planning constraints or by virtue of being very small plots. Such slum plots may become feasible for redevelopment as a cluster redevelopment with other slums. Due to this approach, slum on reservations & amenity spaces can be planned in better way and the same may lead to freeing up of amenity spaces due to shifting of slums on another plot. The SRA is considering the viability of such proposed measure. Accordingly legislative amendments will be proposed made for cluster redevelopment.

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				VITAL PUBLIC PROJECTS: In the alternative to the foregoing, reserved public open spaces should be treated on par with vital public projects under the Regulation 33(10), sub-para 3.11 which provides that slum-dwellers may be accommodated on unencumbered land (by making provision for adequate TDR on such unencumbered land) and not rehabilitated *in situ* on the original plot. In view of the scarcity of public open spaces in the city of Mumbai, it is imperative that public open spaces be treated with the same significance as vital public projects.				
2.	The remedy of Appeal against declaration of Slum area is time consuming	There are no fixed timelines for completion of hearing, its adjudication and disposal of the appeals preferred against declaration of slums under Sections 3C(2) and 4(3) of the Slum Act.	Section 4(3) and 3(C)(2)	There ought to be timelines provided for speedy disposal of the Appeals against declaration of an area as slum area under Section 4(3) / slum area rehabilitation area under Section 3(C)(2).	Yes. Proposed Measure / Solution requires amendment of law by Legislature. Section 3(C)(2) Section 4(3)	A reasonable timeline of 60 days from the date of filing of the appeal for final disposal of the appeal be fixed for speedy disposal of such appeals	T-7	The appeal against declaration of Slum area under Section 4 (3) lies before the Slum Tribunal and against declaration of Slum rehabilitation Area under Section 3C lies before the AGRC. If necessary, authorities give interim orders for stay of impugned orders, this order restrains effect of impugned orders.

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3.	For slum dwellers, the only available option to improve their living conditions is to engage a developer for a for-profit redevelopment project. Therefore, reliance is placed on developers for rehabilitation of Slum Dwellers.	Following the introduction of Chapter I-A ('slum rehabilitation scheme') in the Slum Act in 1996, slum areas are only declared as 'slum rehabilitation areas' for the purpose of implementation of the slum rehabilitation scheme. The practice of declaring a 'slum area' (under Section 4 of the Act) in order to carry out municipal improvement works (Section 5-A) has ceased after the SRA was formed. This is despite the fact that the law still permits it. This is done in order to incentivize the developer leading to a situation where settlements that were earlier not unfit for human habitation have continued to remain inhabitable settlements.	Circular Number 196 dated 27/01/2021, making it mandatory for SR land to be declared as slum. Circular No. 198 dated 26/07/2021 for revised procedure for declaration of SRA area under Section 3C(1) of Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act, 1971. Chapter II and III of the Slum Act, 1971.	As specified in Section 4, Chapter II of the Slum Act, all inhabited areas in the city that are inadequate in terms of health, safety, overcrowding, or basic amenities, or are unfit for habitation as per the criteria enlisted in sub-section (2), must be declared as 'Slum Areas' and improvement works must be undertaken as per the procedure laid out under the Act. These improvement works must be undertaken by the relevant authorities for all such declared 'slum areas' irrespective of whether such areas may or may not be a part of a slum rehabilitation scheme. Declared 'slum areas' must be considered and reserved exclusively for the purpose of low- income housing. There are a number of pockets which are not seen as viable for various reasons for redevelopment. It is important under these provisions to at least improve them. Slum Improvement under Chapter III for all sum areas. Self- redevelopment can be undertaken in situations where the developer has failed to carry out the development process effectively.	No – it requires implementation of the existing provisions in the Slum Act, which is currently not enforced because the authorities see redevelopment (that benefits developers) as the only option. What is needed is a directive by the High Court to enforce Section 4 of the Slum Act and implementation of improvement works as per section 5-A in a time bound manner. For a land to be declared as Slum, a survey of the slum dwellers i.e. Details of slum dwellers must be updated and uploaded on website.		T-6	1. Section 3C was introduced as a part of Chapter IA of the Slum Act. The said Chapter was introduced for faster implementation of slum schemes in Mumbai. Declaring a slum area under Section 4 was not serving the purpose of rehabilitation. 2. On an area being declared as Slum Area under Section 4, Works of Improvement under Chapter III. The provision of Works of Improvement will not address the issue of proliferation of slums. It will not result in areas getting free of slums. 3. The tests under Section 4 are more stringent than under Section 3C. 4. Chapter III does not contemplate redevelopment. Carrying out only Works of Improvement will be a short – term measure;

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4.	Non-inclusion of slums on Central Government owned lands for rehabilitation.	Central Government owned lands have large number of slums on it for many years but remain unprotected and face arbitrary evictions. Slums are not surveyed. All slums to be surveyed and mapped including the ones in Navi Mumbai.	Chapter I, Section 3Z-6 is applicable only for Rehabilitation Schemes.	Slums on Central Govt. lands are also covered under the Slum Act but are excluded under Chapter I-A (Slum Rehabilitation Scheme) and hence must be protected from eviction and provided protection under the Act.	The slums on central government land to be protected and slum dwellers to be rehabilitated as recommended by Afzalpurkar Committee Report.		T-6	1. As per clause (g) of section 3Z-6 of the Slum Act, Chapter I-C of the Slum Act does not apply to lands belonging to the Central Government or any entity thereof unless the same is voluntarily offered for the housing scheme. Chapter I-C of the Slum Act features provisions on constituting a housing committee (S. 3Z-4), development permission in respect of a housing scheme (S. 3Z-5), etc. There is no bar on declaring lands owned by the Central Government as a slum area under section 4. 2. A land belonging to the Central Government can be declared as a slum rehabilitation area under Section 3C of the Slum Act provided all the requirements under Section 3C are met. Additionally, as per Regulation 33(10) 1.11 read with the proviso to the said regulation, of the Mumbai Development Control Promotion Regulations, 2034 ("DCPR"), proposals for slum rehabilitation schemes on land owned by the Central Government shall not be accepted unless a no objection certificate for the scheme is obtained from Central Government. 3. Therefore, the enabling provisions for declaring a slum rehabilitation area or a slum area on land owned by the Central Government do exist.

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5.	While declaring any area as a slum the Ownership of the land is not verified properly.	NOC are issued without following due process	SRA Circular No. 144A &144 B	Wide Publicity through Media Inviting Objection and Reasonable Time for hearing should be given is not implemented NOC of land owner and affidavit for genuineness of the NOC should field. Topographical Survey Should be carried using GIS technology out and made mandatory compulsory. Disciplinary action should be initiated against the officer not following the law & procedure.	Already Provision Are Present In Current Legislation. Yes! As there is absence of any Provision for disciplinary action against the officer not following the law amendment is required.	Strictly implementation of Circular 144A & 144B Disciplinary actio n provision should inculcated and also penalty as present for Example in RTI Act.	T-1	1. Submissions for declaration of slum rehabilitation areas are dealt with under Circular 198. At the time of submission of proposal for declaration of slum rehabilitation areas, the DDLR, SRA refers to the record of rights to identify the owner. The entry in the record of rights is relied on to issue notices to owners. Instead of seeking an NOC, the SRA is hearing objections from the land owner regarding declarations under Section 3C. Declaration of any land as a slum rehabilitation area is not contingent on ownership rights but based on certain criteria. 2. Declaration under Section 3C and Circular 144A and 144B operate in different fields. It pertains to manner of submission of schemes. Section 3C pertains to the declaration of Slum Rehabilitation Areas. The record of rights is relied on even at this stage. 3. Circular Nos. 144A and B pertain to the manner of submission of schemes by the owners. The former has no bearing on the latter. 4. The State Government already publishes the Section 3C and 4 notification in the newspaper. 5. A Topographical survey at the time of declaration of lands under Section 3C and Section 4 serves no purpose. A drove survey is being carried out and the same is effective. 6. All the officers appointed in the SRA are government officers for the purposes of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 which govern the process for disciplinary

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								proceedings and penalties.
6.	Survey of slum structures	While carrying out the survey of the slum and also while demolition the structure accurate videography is not done.	No SOP or circular	Videography should be carried while surveying slum structure and also while demolition the slum structure. Disciplinary action should be initiated against the officer not following the law.	Yes requires inculcate the provision regarding the same.	Absence of provision in current legislation.	T-1	1. As part of the biometric survey under Circular 214, the SRA is already videographing each slum structure in each scheme/ slum cluster. 2. The SRA will mandate videography for all demolitions carried out by the SRA. 3. On disciplinary action against errant officers, please refer to the response in point 5 above. 4. Survey of slum structures becomes necessary for identification of hutments and eligibility of slum dwellers.

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7.	As per Section 3B read with Section 3C of the said Act, a land can be declared as a Slum Rehabilitation Area, only upon the CEO being satisfied that there exists circumstances for a land to be declared as a slum. Accordingly, there is onus on the CEO to declare a land as a Slum Rehabilitation Area.	There is no provision in the statute for a landowner to have a land declared as Slum at his instance.	Section 3B read with 3C of the Slums Act	The Statute should be modified to the extent that a separate provision should be set out alongwith necessary procedures and timelines to enable a landowner to file an application/representation before the SRA and/or the CEO to declare his land as a Slum Rehabilitation Area	Yes	There should be an amendment to enable a landowner whose land has been encroached to approach the SRA with an application to declare his land as a slum under the said Act. This amendment should include the landowner's first right to develop the land and to rehabilitate the occupants of the land who would satisfy the criteria of Annexure – II.	T-2	Under the Slum Act, there is no embargo for the owner to approach the CEO to declare their land as a Slum Rehabilitation Area. Additionally, Circular 198 dated 26th April, 2021 issued by the SRA expressly provides that landowners and a cooperative society of slum dwellers can apply to have land declared as a Slum Rehabilitation Area.
8.	Whilst the legislation provides for a time limit within which a land has to be declared as Slum Rehabilitation Area, but in reality, the time taken to declare a land as a Slum Rehabilitation Area is significantly delayed.	A period of 6 to 12 months lapse to have a land declared as a Slum. Despite slum tenements being evidently present on such a land in inhabitable circumstances, various parties with an intent to act in a manner detrimental to the rights of the landowner raise frivolous objections like title disputes, proposals of third party developers, consent of slum developers to cause	Section 3C of the Slums Act	Section 3C requires an amendment, which would direct compliance of time period. Experience has shown us that the period of 30 days and 45 days is not realistic. Generally, it takes almost a year for declaring an area as a slum area under section 3C. It is proposed that there should be an amendment of the notice period and opportunity to be heard within 45 days so that the authorities give adequate opportunity to stake holders concerned. The stake holders should be at this stage only the owners of the land as that would ensure declaration of a land as slum within a reasonable time.	No. A directive can be issued by the way of a circular calling upon the authorities to complete the process of declaration of slum in timely manner and further, restricting hearing of parties to only landowners in case where a landowner has filed an application for declaration of his own land as a Slum Rehabilitation Area		T-2	1. The CEO – SRA shall issue directions to carry out declarations expeditiously i.e. span of 6 to 12 months. The said time is required as the process of declaration involves survey of lands, notice to owners, publication of notice etc. Consent of slum dwellers in not relevant under Section 3C. Proposal of third – party developers at this stage does not arise. 2. In the interest of fairness, a public notice with the intention to declare a slum rehabilitation area is also pasted on the site, published on the SRA website and in newspapers. Pursuant to this, a hearing opportunity is afforded to owners and all persons who have filed suggestions and objections to the draft notification under Section 3C.

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		delay declaring a land as Slum Rehabilitation Area.						
9.	Loss of valuable MCGM land and MHADA land, in the name of S. R. Scheme.	In the name of encroachment and then rehabilitation of slum dwellers, MCGM Land and MHADA Land, are given to private Developer, for their commercial exploitation, by paying a negligible amount to MCGM and MHADA respectively, as the case may be. Thus, valuable land of MCGM and MHADA are disposed of forever, without much coming into the pocket of MCGM	(a) Under MMC Act, 1888, tender is required to be invited for contracts involving expenditure exceeding Rs. 3 Lakhs [as provided u/sec. 72 of BMC Act, 1888]. Further, disposal of municipal property for slum scheme is governed by sec. 92(ddd) of the MMC Act, 1888. Moreover, Chapter XII-A of the MMC Act, 1888 provides for 'Improvement Scheme', wherein,	All new Slum Rehabilitation Scheme on MCGM Land and MHADA Land, should be undertaken by respective Landowning Authority.			T-9	1. The suggestion made requires legislative amendments and the same is in the realm of policy. 2. The consent of MHADA and MCGM for implementation of Slum Scheme is contemplated under Regulation 33 (10) (2.8) of DCPR 2034. 3. Regulation 33 (10) (1.11) of the DCPR contemplates payment of premium and also lease rent. 4. In recent times, steps have been taken by MHADA and MCGM to redevelop lands owned by such authorities by entering into a joint venture arrangement with the SRA.

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		and MHADA. Here it is important to note that disposal of Corporation Land is governed by The Mumbai Municipal Corporation Act, 1888 [in short '**MMC Act**, **1888**'], similarly, MHADA Land is governed by Maharashtra Housing and Area Development Act, 1976 [in short '**MHADA Act**']. However, while disposal of MHADA Land and MCGM Land, in the name of S. R. Scheme, the statutory provisions are being blatantly violated, thereby, causing huge financial loss to MHADA and MCGM, not only in terms of loss of valuable land, but also in terms of profit that could have been made from said land. It is also important to note that, MHADA has a primary objective to provide 'AFFORDABLE	Commissioner is empowered to approve 'Improvement Scheme', which includes construction of Building for the accommodation of poorer classes. Likewise, Corporation possesses the constitutional mandate for 'Slum Improvement' as provide under Article 243-W r/w entry 10 of XII Schedule of the Constitution of India, 1950. (b) <u>Under MHADA Act</u>, for 'Slum Improvement', 'the Mumbai Slum Improvement Board' is constituted [as provided u/sec. 18(1)(c) of the MHADA Act], to undertake and execute such improvement works as it considers necessary in any slum improvement areas [as provided u/sec. 108 r/w sec. 104 of the MHADA Act]. Section 64 of					

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		LOW COST HOUSING' and at the same time MHADA has all the expertise to develop its land and then allot the flats through lottery, which the MHADA has been successfully undertaking throughout Maharashtra. But here in the name of implementation of the S. R. Scheme, MHADA is losing its valuable land, contrary to its objective and in blatant violation of provisions under MHADA Act. Similarly MCGM, who is implementing vital infrastructure project, require large number of Rehab Flats, for rehabilitation of displaced 'Project Affected Persons' [in short PAP's] in such infrastructure project. Therefore, by undertaking redevelopment project, by MCGM	MHADA Act, deals with power to dispose of MHADA Land.					

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		itself on MCGM land, said requirement of Rehab Flats can be fulfilled. Needless, to mention that, MCGM also has all the expertise to undertake redevelopment on MCGM Land. In this regard, Maharashtra Industrial and Develop ment Corporation Act, 1961 [In short '**MIDC Act**'], is a classic example, where MIDC itself undertakes S lum Scheme on its land, thereby preventing misuse of its land.						

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10.	Identification & Declaration of land as a slum	Slum declaration is done at the instance of the developer. If the developer is not appointed, the declaration is mostly not done automatically after 1977. The developer is appointed by the slum dwellers' Society whose formation is again influenced by local politicians and developers. As a result, it is in odd-even shapes. The non-consenting portion is separated and after getting appointed, the Developer may or may not add the excluded portion. All such things *gave* reason to use discretionary powers by officials and ministers. This in turn gives rise to a multifold increase in Corruption.	RERA Act, 2016 has been enacted to bring standardisation, accountability, professionalism, and transparency in the real estate sector. It is a complete code. Section-88 makes the RERA Act overriding effect over all prior laws. Still, multiple regulators regulate the real estate sector including SRA for slum schemes. A large no. of projects got stalled. RERA Act already has effective provisions u/s 6 for an extension if the project remains incomplete after the expiry of the validity of the registration, revocation of registration u/s 7, completion of an incomplete project whose registration is lapsed or revoked u/s 8.	1. Complete survey of slums through the use of the latest technology viz. satellites, drones, gee-tagging etc and independent professionals based on defined parameters within a cut-off date. 2. SRA Authority will identify slum plots based on scientific criteria 3. The land ownership, area and boundary-related records and revenue records will be automatically updated as per the slum declaration of a slum plot identified above. It will automatically change the ownership and transfer it to SRA by operation of law. 4. Pvt ownership plots will be entitled only to monetary compensation as per predefined norms after following the acquisition process in a time bound manner. 5. Disputes if any shall not affect the slum declaration. 6. Slum plots so identified will be listed on the dedicated Website of the Government. 7. The website shall be prepared after studying existing procedures, schemes, various relevant			A-11	1. The SRA is already carrying out a biometric survey along with drone survey of slum areas. 2. There are criteria for declaration of areas as slum areas / slum rehabilitation areas. 3. Automatically updating the SRA as owner of the land without following due process of law would infringe on the constitutional right of owners. 4. The owner cannot be provided merely monetary compensation for their land. If they are willing to rehabilitate slum dwellers on their land, they must have that option of carrying out redevelopment. 5. Slum declaration is independent of the ownership rights of people. 6. The SRA will list declared slum rehabilitation areas and slum areas on its website. 7. All present policies and circulars will be considered while updating the website. 8. Certain suggestions made require legislative amendments and they may be challenged in Courts.

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				laws, eligibility-related rules and criteria based on actual practicalities and judicial Precedents.				
11.	Delegation of Legislative function	The delegation of legislative functions, such as slum declaration, to administrative authorities has resulted in an erosion of the distinction between legislative and administrative functions		Transfer the power of slum declaration from administrative authorities to a competent, specialized authority			A-16	Declaration of a slum area / slum rehabilitation area is not a legislative function. Areas are declared as slum area / SRA by the CEO – SRA which is a specialized body dealing with slum rehabilitation schemes. Any such decision is open to appeal and legal recourse.
12.	Integration with DCPR 2034			Slum declaration should be intrinsically linked with the Development Control Regulations This integration would ensure that slum encroachments are properly evidenced in Development Plans, thereby potentially			A-16	Encroachments/ slums are earmarked under existing land use while preparing the Development Plan.

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				mitigating related litigation.				
13.	Notification process			For slum declarations, every entity (when not a slum dweller) should be duly notified, including both occupiers and owners. In instances where the owner is not occupying the land, notice should be served through alternative modes such as newspaper publications.			A-16	1. The Competent Authority declares any area as a slum area under Section 4(1) through a notification in the official gazette. Additionally, the order is also published in one local newspaper. 2. The CEO also declares any area as a Slum Rehabilitation Area through a notification in the official gazette. As per Circular 198 dated 26.04.2021, a public notice with the intention to declare a slum rehab area is pasted on site, published on the SRA website and in newspapers.
14.	Conflicting Authority Actions	There exist instances where one planning authority provides factory licenses, shop establishment licenses, and collects property and water taxes, while another auth ority declares the same property as a slum for non-participation in biometrics.		Establish a unified system or improved coordination between planning authorities to prevent such contradictory actions.			A-16	1. There is a distinction between the charges collected by the BMC on authorized structures and unauthorized structures. The BMC has the mandate to provide basic civic amenities such as roads, sanitation, drinking water, irrespective of the legality of the structure. 2. Grant of factory license, collection of taxes by authorities does not confer any right on any slum dweller whose eligibility is considered in accordance with law.

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15.	Confusion in the Act/ DCR with respect to differed types of slums	DCR 33(10) and the Slum Act provide for 3 different kinds of slums. There are also Slum Declarations under Section 4 of the Slum Act		The Slum Act should be rationalised where all the different kinds of slums and the legal regime applicable to the same are clearly set out. Currently, while the Slum Act only prevents demolition of "protected structures" by the occupant, it is the DC Regulations that set out how rehabilitation should be done.			A-17	There are three types of slums: (i) censused slums as defined in 2(1)(b) of the Slum Act; (ii) notified slums under Section 4 of the Slum Act; and (iii) slum rehabilitation areas under Section 3C of the Slum Act. The rehabilitation of all the above three types of slums is carried out in accordance with 33(10) of the DCPR 2034.

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION
SUO MOTO WRIT PETITION NO. 1 OF 2024

IN RE: PERFORMANCE OF AUDIT OF THE MAHARASHTRA SLUM AREAS (IMPROVEMENT, CLEARANCE AND REDEVELOPMENT) ACT, 1971.

…Petitioner

Versus

THE STATE OF MAHARASHTRA & ORS.

…Respondents

SUGGESTIONS FOR IDENTIFICATION OF SLUM DWELLERS

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1.	Everchanging number of eligible slum dwellers due to the changes in cut off dates for eligibility of slum dwellers	The cut off for giving status of protected occupier for a dwelling structure who will eventually be eligible for rehabilitation w as initially 1985 and was subsequently revised to 01.01.1995 and thereafter to 01.01.2000 and recently to 01.01.2011 by the State government under the sub-regulation VIII (3.12) (C) of Regulation 33(10) of DCPR 2034. Pursuant to the above, the Government of Maharashtra has vide its notification dat ed 16.05.2018 declared that slum dwellers existing in respect of a structure on or before 01.01.2011 may be given rehabilitation tenement subject to recovery of cost of construction for such tenement, from the slum dweller. The cost of construction is to determined vid e notification	16.05.2018; Notification dat ed 07.09.2018 Issued by Government of Maharashtra	Purchase of permanent accommodation to the slum dwellers. It is imperative to make it clear under the Slum Act that the cut-off date cannot be extended merely by way of an issuance of a circular/notification.			T-7	1. The cut – off date has been fixed as 1.1.2000 and has not been extended thereafter. The cut – off date for free of cost tenement is fixed as 1.1.2000. Between 2000 to 2011 are offered the alternate accommodation on payment of cost. 2. There has been no extension of date after 2011. Such occupiers between 2000 to 2011, if the potential of the existing scheme does not have scope for their rehabilitation There has not been any extension of date beyond 2011.

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		dated 07.09.2018 issued by Government of Maharashtra. This extension of the cut- off date has resulted in rampant increase in encroachment and various slum dwellers initiating various legal proceedings before SRA/competent authorities for proving their eligibility. This has resulted in a massive influx of eligibility cases before the competent authorities. This constant change in cut-off date and change in eligibility causes delay in completion of the slum projects and makes planning difficult.						

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2.	Delay in finalization of Annexure II due to the absence of limitation laws and lack of timebound mechanism for finalizing annexure II	SRA vide its Circular No.217 dated 12th February 2024 directed all Competent Authorities to generate Annexure II only by using Auto Annexure II application and further Deputy Collector / SRA / Engineering Department of SRA shall not accept and act upon any manually prepared Annexure II. However, The aforesaid Circular however does not provide for completion of issuance of Auto Annexure II in a time bound period. Appeals by ineligible slum dwellers is often filed belatedly and there is no time limit/limitation within which the ineligible slum dweller ought to file an appeal against his/her ineligibility. This often leads to delay in ascertainment of the final number of eligible and non- eligible slum dwellers and consequently number of tenements to be handed over to the eligible slum dwellers in a project. Further, basis of the number of tenements to be handed over to the	Regulation 33(10) of the DCPR 2034; Notification dated 23.08.2016 issued by Government of Maharashtra read with notifications dated 14.09.2018, 12.08.2021, 11.02.2022, and 23.05.2022; Circular No.217 dated 12th February 2024.	For the purpose of declaration of any land as slum rehabilitation area under Section 3(C)(1) of the Slum Act, the SRA/Deputy Collector carries out a survey of that land to determine the plot boundaries of the land and prepare a slum plan. The procedure for preparation of Auto Annexure II ought to be initiated and completed at this stage itself by the SRA/Deputy Collector. This would enable simultaneous preparation of the Auto Annexure II at the time of the declaration of a land as slum rehabilitation area itself and would enable near finalization of the number of eligible slum dwellers on the site. Any occupants aggrieved by their ineligibility under the Auto Annexure II ought to prefer an appeal before the Appellate Authority within a period of 30(thirty) days from the date of the publication of the Auto Annexure II without any further extension. The Appellate Authority shall decide and dispose of such Appeals within a period of 60(sixty) days from the date of filing of the Appeal. Any changes to the Auto Annexure II pursuant to the decision of the aforesaid appeals, ought to be effected simultaneously by the SRA/Deputy Collector to avoid any wastage of time.	Partly yes. Proposed Measure/Solution pertaining to introduction of limitation/timelines, requires amendment of law by Legislature. Proposed Measure/ Solution pertaining to issuance of Annexure II at stage of declaration may be done without amendment of law. Section 3(C)(1)/ Section 4 Circular No.217 dated 12th February 2024 Section 35	Annexure II ought to be prepared and issued simultaneously at the stage of declaration of the land as slum under Section 3(C)(1)/ Section 4 of the Slum Act in a time bound manner. Appeal by ineligible occupants ought to be filed before the Appellate Authority within a period of 30(thirty) days from the date of the publication of the Annexure II without any further extension. The Appellate Authority shall decide and dispose of such Appeals within a period of 60(sixty) days from the date of filing of the Appeal. Competent Authority shall duly update the changes to	T-7	1. The question of survey of slum dwellers for preparation of Annexure II can be initiated only once land is declared as slum / slum rehabilitation area. 2. In respect of lands already declared as slum areas / slum rehabilitation areas, the SRA is carrying out a biometric survey of the slum dwellers at which time documents are taken. This process is being carried out for lands where no proposals have been received. Till date out of 2597 clusters, biometric survey of about 1825 clusters have already been carried out. Biometric survey of 4,45,670 no. of structures have been carried out till date. This biometric survey results in finalization of Annexure II. 3. SRA is considering the viability of preparation of Annexure II even in respect of lands in respect of which no proposal for redevelopment is yet received, so that if a proposal is received, no time is lost in finalization of Annexure II. 4. Once eligibilities are decided, the ineligible slum dwellers have a right to file an Appeal. 5. Though a period of 30 days in provided for challenging any order, direction etc. before the appropriate authority, the Annexure II is being uploaded on the website. However, most often, the slum dwellers express ignorance about the uploading of the Annexure II on the website. The SRA is considering the viability of auto – SMS to communicate to all slum dwellers that Annexure II has been uploaded informing them of their right to appeal. 6. The law as it stands contemplates 2

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		eligible slum dwellers, the balance tenements in Rehab Component are to be handed over as PAP to the SRA.				Annexure II immediately after the decision of the Appellate Authority.		stages of appeals. The initial challenge lies to the Additional Collector u/s 35 (1) and a further appeal is provided before the GRC u/s 35(1)(a). 7. The SRA is in the process of increasing the Additional Collector and number of GRCs to dispose appeals expeditiously. In any case, under Reg. 33 (10) (3.12) (C), the developer is required to construct tenements irrespective of eligibility.
3.	Limitation and timeline for adjudication of the proceedings under the section 33 and 38 of the Slum Act and parameters for invocation of proceedings under section 33 and 38 of the slum act.	Neither Section 33 nor section 38 of the Slum Act provide for a specified timeline for adjudication of the proceedings which eventually results in perpetual delay in vacating of occupants from their structures and in demolition of the existing structures. This also results in delay in commencing the rehabilitation scheme. The developer is compelled to continue paying rent to other slum dwellers and incur other costs in relation to the project which	Sections 33 and 38 of the Slum Act	Once rent for period of nearly three years is secured for the slum dwellers of a particular phase of slum scheme, then in that case there ought to be a consequent fixed timeline of around 3 (three) months from such deposit for vacation of the slum dwellers and demolition of their structures in respect of such phase. The onus for eviction and demolition of slum dwellers ought to be taken by the SRA and competent authorities. It is unfair to put onerous conditions which have major financial repercussions on the developer and have no consequent remedy to implement the vacation,	Partly Yes. Proposed Measure / Solution requires amendment of law by Legislature. The proposed measure in relation to vacation of slum within 3 months by the competent authorities from deposit of rent does not require amendment. Sections 33 and 38	The Competent Authority after the issuance of Letter of Intent shall immediately proceed Suo motu under Sections 33 and 38 to evict the occupants of the particular phase of slum from the site and proceed to demolish the slum structures. This procedure of eviction of occupants from the site and demolition of	T-7	The issue raised is already addressed above.

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		causes financial hardship on the developer. Since vacation of slum dwellers takes substantial time, the construction cost increases and as a result thereof, the developer faces financial losses and, in some cases, may default in completion of the project. CEO, SRA has issued a circular no.210 dated 01.08.2023 mandating deposit of advance rent for the period of two years and post-dated cheque towards rent for a further period of one year. It states that only once this condition is fulfilled, the LOI will be processed. Basic parameters when Sections 33 and 38 of the Slum Act can be invoked, is presently vague/unclear. Even after the proceedings under Sections 33 and 38 are concluded by the Competent Authority, the same do not get executed by the authorities in a timely manner. Infact, the		eviction of slum dwellers and demolition of structures from the site. This will also enable speedy commencement of construction and implementation of the slum scheme. The basic parameters for invocation of Sections 33 and 38 of the Slum Act [such as are applicable in rehabilitation schemes of MHADA lands under Regulation 33(5) of DCPR 2034] could be (a) issuance of letter of intent; (b) consents of 51% of the slum dwellers; (c) provision of rent or temporary accommodation for the slum dwellers. The eviction of the slum dwellers and demolition of a slum structures ought not to be held up for decision on eligibility. There ought to be a reasonable timeline on the competent authority for executing the Orders passed under Sections 33 and 38 of the Slum Act. The Competent Authority ought not to wait for the decision on the eligibility before the Appellate Authority or treat mere filing of the appeal/writ petition or any other proceeding for that matter as a stay against eviction		slum structures ought to be completed within a period of 3(three) months from the date of issuance of Letter of Intent There ought to be a dedicated wing under SRA itself for carrying out the eviction and demolition of the structures.		

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		Competent Authority waits for the final decision of appeal / Writ Petition / SLP despite there not being any order of stay passed by any superior Court. Filing of appeal is treated as de-facto stay by the authorities and no steps for eviction are taken.						
4.	Vertical Slum Structures	Section 2 (b), Section 3X (a) of the Slum Act read with Regulation 33 (10) (II) (vi) of DCPR 2034 defines a ”building” and a “dwelling structure” as being restricted to ground floor structures. However, in numerous cases, multiple floors have been constructed above the dwelling structure on the ground floor, effectively resulting in a vertical slum. The occupants of such additional floors above the dwelling structure submit applications and initiate proceedings for a rehabilitation unit and for rent / temporary accommodation. This results in occupants of such floors not co-	Section 2(b), Section 3X(a) of the Slum Act read with Regulation 33(10) (II) (vi) of DCPR 2034	A clarification ought to be issued that only the eligible occupants of the dwelling structures on the ground floor are entitled to a rehabilitation unit and for rent / temporary accommodation. Alternatively, a developer ought to be suitably compensated for providing rehabilitation unit and rent / temporary accommodation for the slum dwellers residing in the floors above the ground floor structure in the form of incentive FSI and/or TDR.	Yes. Proposed Measure/Solution requires amendment of law by Legislature. Section 3X(a)	Definition of “dwelling structure” under Section 3X(a) of the Slum Act, should clarify whether structures above ground floors are “dwelling structure” or not. If the intent of the legislature is to include such structures as “dwelling structure”, then the developer ought to be given proportionate use of FSI/TDR under Regulation 33 (10) of the DCPR 2034	T-7	It is clear from the definition of dwelling structure (Section 3X(a) of the Slum Act) that only structures attached to the earth i.e., ground floor structures are considered as dwelling structures under the Slum Act. Further, the Hon’ble Bombay High Court in the case of *Pameshkumar Nandnlal Sahu v. High Powered Committee & Ors. – WP No. 3075 of 2015* held that mezzanine structures are not eligible for slum rehabilitation.

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		operating in vacation of their structures and adopting various legal proceedings and even impugning the slum development scheme, which causes delay in implementation of the slum project. Though it should only the occupants of such ground floor structures that ought to be entitled to a rehabilitation unit and for rent/temporary accommodation, the occupants of such additional floors/mezzanine above the dwelling structure also submit applications and initiate proceedings for a rehabilitation unit and for rent / temporary accommodation. This results in occupants of such floors not co-operating in vacation of their structures and adopting various legal proceedings, which causes delay in implementation of the slum project.						

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5.	Vacation of Privat Plessel of land declared as Slum area/Slum rehabilitation area	Presently the Slum Act contains no provision of the manner in which any private lessee of land declared as slum or tenants in buildings on land declared as slum are to be dealt with in terms of their entitlement to area, rent etc. Sections 33 and 38 of the Slum Act are not being implemented by the authorities against private lessee of land or tenants in buildings on slum lands unless an agreement is arrived at between the developer and such parties in regard to the commercial understanding for their vacation and re-accommodation. Due to this lack of clarity, a developer is unable summarily evict such private lessee and tenants, who then try to seek maximum benefits from the developer and ultimately cause delay in implementation of slum schemes.	Section 33 and 38 read with Regulation 33(10) of DCPR 2034	There ought to be a mechanism set up to deal with vacation of private lessee as well. Measures are required to be taken so that private lessees do not cause hurdles in the implementation of the SRS. Slum Act should specify that the provisions of Slum Act would prevail over all other statutes	No. Section 33 and 38 Regulation 33(10)	Rules/Circular may be issued under Slum Act to clarify that lessee of land/buildings declared as slum or tenants in buildings on land declared as slum are liable to be evicted under section 33 and 38 of the Slum Act. Lessee of land/buildings, tenants in buildings on slum, be given entitlement in terms of area, rent as per Regulation 33(10).	T-7	In so far as authorized structures in a slum area / SRA where area is occupied under a private arrangement with owner / lessee, at times a combined scheme i.e. 33 (10) with 33 (5) or 33 (7) etc. is permitted provided the owner / developer fulfils the provisions / statutory requirements. Dehors the statutory provisions, the present statutory regime does not contemplate throwing out a legitimate tenant / lessee by the SRA by exercise of powers under Section 33 and 38 of the Slum Act. There are certain provisions regarding removal of Vacant Land Tenures / Imla Malik (Regulation 33 (10) (1.12)).

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6.	Vacating Slum dwellers from commercila slum structures	The Slum Act read with Regulation 33(10) of DCPR 2034 provides that all eligible slum dwellers are entitled for a maximum carpet area of 300 square feet irrespective of the actual area occupied by all residential as well as non- residential / commercial / economic activity areas. There are instances where multiple floors have been constructed above the structures on the ground floors in slums and are used for commercial purposes. Some of these structures range from 1000 square feet to 15,000 square feet. Usually, the slum dwellers let out these structures on rental basis and make profits therefrom. Despite the aforesaid position in law in respect of their entitlement of area, the slum dwellers demand for equivalent area in rehab as was occupied by them earlier. This makes is practically difficult for a developer to finalize plans to meet the demands of few commercial occupants. This also leads to other	Section 33 and 38 read with Regulation 33(10) of DCPR 2034	There ought to be a mechanism set-up so that a miniscule number of slum dwellers do not come in the way of vacating the slum dwellers from the land	No. Regulation 33(10)	Regulation 33(10)(6) ought to be amended to permit provision of commercial rehab premises equivalent to the area occupied and equivalent sale FSI to be made available to the developer.	T-7	1. The Competent Authority/ CEO is empowered to evict slum dwellers that are not consenting to the scheme. 2. Area equivalent to what was occupied earlier is not practical. 3. Only ground floor structures are being considered. The structure above ground floor is not considered for rehabilitation.

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		slum dwellers to demand larger areas. Furthermore, some commercial occupants refuse to vacate their larger structures and create hurdles in this regard by initiating legal proceedings. Eventually the developer is compelled to settle with such commercial structure owners and provide area from their sale component.						
7.	The Slum Rehabilitation Scheme cannot achieve a slum free Mumbai – every SRA project creates a net deficit of housing stock, by demolishing more houses that it replaces.	Slum rehabilitation schemes are based on date-line or "cut-off date" entitlements – and the scheme only provides replacement units for a limited number of "eligible" households. The ineligible dwellers have no choice but to find accommodation elsewhere, typically in other slums. This is a major weakness in the scheme: it ends up tearing down more houses than it builds. Contrary to the mission of the SRA to create a "slum free Mumbai", every SRA project creates a net deficit of affordable housing stock which ensures that slums will change form and location but never be eliminated.	Chapter I-B, section 3-X and 3-Z Protected Slum Dwellers.	Eligibility of slum-dwellers for rehabilitation schemes must be based on the date of survey of slum-dwellers for a redevelopment project rather than on arbitrary 'cut-off dates.' This norm has already been followed in the World Bank aided infrastructure projects in Mumbai.			T-6	To balance the rights of the slum dwellers, it has been provided that slum dwellers between 2000 – 2011 will be rehabilitated on payment of costs.

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8.	Exclusion of 'non consenting' slum households and fraudulent 'consent' for redevelopment projects	The consent requirement of 71% of eligible households has been watered down to 51%. It is common for developers to delineate a scheme boundary in a manner that excludes non-consenting members. Apart from this technique, there have been numerous documented cases of misinformation, corruption, intimidation and coercion by builders and their agents to attain the requisite number of 'consenting' members. In other words, the principle of consent envisioned by the framers of the slum rehabilitation scheme has been both undermined in the regulations as well in practice.	DCPR 33 (10)	**Rehabilitation area:** the rehabilitation scheme area for a project must be demarcated and notified by the SRA based on clearly established parameters before the identification of a developer and before the survey of slum-dwellers. **Consent:** Consent of 71% of slum-dwellers identified through the survey must be proved for developer as well as for project proposal. **Scheme information:** all scheme information including scheme area, plans of the rehabilitation, timeline of construction, transit arrangements, must be made available to slum-dwellers sufficiently in advance of the process of establishing 75% consent for the project. The guidelines prepared for under section 79(A) the Cooperative Societies Act can be similarly prepared for redevelopment of slum areas.	Amendment to the Slum Act as well as DCPR 2034		T-6	1. Identity of members attending the meeting is verified by the authorized officers of SRA. The authorized officer thereafter takes the votes and declares the results of the meeting. The meeting is videographed. 2. Thereafter the developer submits a scheme with the notarized written consent of 51% of eligible slum dwellers. 3. The SRA is exploring the possibility of preparation of Annexure II by the SRA on the basis of biometric survey so that when a scheme is received the proof of eligible slum dwellers is already available. 4. The SRA is also considering imposing of conditions on developers that the process of taking consents is videographed by developers. This will reduce disputes regarding the identity of the persons.

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9.	Developers adopt fraudulent strategies to fabricate Annexure-II by inflating the number of slum-dwellers in the scheme	Developers do so to obtain additional Floor Space Index from the Government. Lack of measures to curtail such issues. Since eligibility of slum dwellers is required for them to consent to the scheme, it motivates the developers to further forge consent by using strategies such as adding names of people who do not exist, people who are dead, arbitrary merger and inclusion of adjacent territories, etc. The link of eligibility to consent has made those who ask for more information or disagree vulnerable to physical threats and intimidation.	GR dated-17.01.2008 GR dated-04.06.2008 Circular date d- 12.02.2024 DCPR 33 (10)	Consent for a developer's project formulation needs to be linked to presentation of a full project design including plans for transit periods and delivery of houses, followed by a Q&A session and then a consent form that is distributed to every existing household in the delineated territory should be returned by the household to the promoters within 2-3 days. The consent given should be an informed consent, and the slum dwellers should not be forced to consent to a scheme without being full knowledge of the scheme and the timeline for redevelopment. The slum dwellers should be involved in the proposed project. Consent mechanism needs to be strengthened, which includes a process that respects the integrity of the settlement boundaries for calculation of the total number of households and a process that is accompanied by full prior information. A contract should be signed after this with a countersign by an SRA representative and a copy should be handed over to every household. An eligibility test should be undertaken after the signing of contract. Those considered ineligible are often being an assurance of rent so that they vacate the houses. Options for the eligible, the ineligible should therefore be clearly			T-6	The said issue is answered above.

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				mentioned in the contract whose copy should be shared with every household, irrespective of eligibility. Developers should be barred from clubbing multiple schemes after presenting a project to slum developers and getting consent, based on the same.				
10.	Displacement of slum dwellers due to eligibility norms.	Given eligibility norms, at least 10-15% households get displaced even before a scheme is completed and another 8-10% in the next few years of occupation, partly due to the economic and social vulnerabilities of the residents.	33(10) VI 1.16 (iv), DCPR, 2034 Section 10, SR Act Section 38, SR Act Government Resolution dated 18.08.2023 for Documents to be considered for the eligibility of Non-residential slum dwellers/ stall holders for redeveloped tenement.	Displacement of slum dwellers due to eligibility norms			T-6	

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11.	Non-issuance of photo-passes	Since the Act has been brought in, it has been only once in the year 1976 that photo passes were issued and after that a survey was once carried out in the year 1999- 2000 for revision and updating the photo pass holders but the exercise was not completed and no new photo pass was issued. The ground survey carried out to determine the eligibility is done mostly in absence of government officials and inadequate staff.		Photo passes should be issued to slum dwellers, in regard to identification of 'slum dweller' as per the provisions of Section 3 Y (1) of the Maharashtra Areas Act and the same can be used. If need be; for the preparation of Annexure I under DCR 33.10. Provision to issue photo passes to those who have been surveyed under the current biometric survey.			T-6	1. The State Government has issued Government Resolutions dated 16.5.2015 and 16.5.2018 wherein it is clarified that eligibility of a slum structure and a slum dweller can be decided on the basis of any of the documents mentioned therein which includes a census form on the basis of which photo passes were issued in the year 2000. Therefore, issuance of a photo-pass is not necessary. Other documents are also valid documents for eligibility. 2. The ground survey is carried out by the Surveyors in the SRA. Additionally, Tahsildars/ Naib Tahsildars in the SRA personally verify 100% of the slum dwellers surveyed. The Deputy Collectors who are Competent Authorities under the Act personally verify 10% of the eligible slum dwellers. 3. With the biometric survey, the process of verification of documents is quicker and expeditious.
12.	Unrealistic and stringent conditions of documents required to prove eligibility.	The cutoff dates rely on residents to produce electricity bills, electoral rolls, photo-passes and survey slips to prove eligibility. Research points out that it takes years (often decades) for residents to obtain these documents leading to lot of exclusion of people.	G.R dated 16.05.2015 and 16.05.2018	Documents like birth and death certificates, school leaving certificate, police complaints, Aadhar and PAN Card, bank passbooks should be added to the list of documents needed for eligibility.			T-6	Essentially documents where authority verifies the location are being utilized for the purposes of eligibility. The documents suggested are prone to abuse.

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13.	Societies conduct their GBMs with the developers and their agents taking an active part and without following due process required under the MCS act, 1960, and the circulars issued by the SRA, raising concerns about the legality and transparency of the formation process.	SRA officers often cater to developers, allowing them to profit while exploiting slum dwellers. This suggests that the officers may have personal interests in benefiting financially from these developers.	Circular No. 169 mandates that a General Body Meeting (GBM) be held before the registration of a society under the MCS Act, 1960, to pass resolutions for appointing the chief promoter and developer.	The process of forming a society should only commence after the issuance of Annexure II, ensuring that only eligible slum dwellers are involved in the implementation of the scheme.			T-6	The meeting for appointment of developer is done under the aegis of the officers of the SRA. Various steps regarding finalization of Annexure II and appointment of developer are set – out hereinabove.
14.	Arbitrary use of section 33 and 38 of the Slum Act 1971	It has become a practice that Section 33-38 proceedings are initiated against slum dwellers who are opposing the Scheme in cases of malpractices by developers or against non-consenting members. This is done at the instance of the developer without hearing the non-consenting slum dwellers or their complaints, to get rid of any objections to the project.		Procedure for conducting any eviction of slums by any authority should be preceded by: i) a survey of all residents, ii) individual notices to all residents iii) preparation of annexure-2 based on the survey iv) sufficient appeal time before eviction v) rehabilitation before eviction vi) appeal process after eviction as well vii) no evictions during monsoon periods as per the Supreme Court's order. Officers using arbitrary power to evict should be prosecuted under criminal charges as the people rendered homeless suffer tremendous violence due to homelessness.	Amendment of Section 3Z to make the procedures of eviction and rehabilitation and the penalties of its violation very clear. It should not leave out scope of arbitrary use of power when comes to eviction.		T-6	The procedure under section 33 and 38 is initiated after the determination of eligibility. The parameters of Section 33 and 38 are settled by various judgments of this Hon'ble Court.

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15.	Increased number of bogus slum-dwellers who are in favour of the Developer and those who are against the developer are left out without survey.	Non implementation of Biometric survey	Circular No. 217 dated 12 February 2024.	Biometric survey for identification of number of exact slum dwellers of particular plot and integration of the same with central data base is required irrespective of the Authority preparing Annexure II Disciplinary action should be initiated against the officer not following the law.	Yes required official should be held responsible a nd disciplinary action and penalty should be imposed.	Yes penalty provision clause shall be included shall be against the officials not following it.	T-1	1. Currently, Auto Annexure-II issued by the Competent Authority is based on a central database of the SRA which is prepared on the basis of the cluster survey undertaken by the SRA. 2. On disciplinary action against errant officers, please refer to the response in point 5 in Table 1. 3. Biometric survey is in fact being carried out.
16.	Undecided Eligibility of slum dwellers.	Eligibility applications are kept pending for years on the instance of developer and for some Monetary expectation of the officials	Circular No. 91	Application should be decided with the required time frame as that of RTI Applications. All the appeal proceedings should be completed with 1 year. Disciplinary action should be initiated against the officer not following the law	Not required already provision is present but not implemented.	Yes penalty provision clause shall be included shall be against the officials not following it	T-1	There is no concept of eligibility applications. As regards the appeals suggested, the same has been dealt with hereinabove.
17.	Identification of genuine Slum Dwellers [Eligibility], recorded at a centralized data base, so that bogus slum dwellers, can be eliminated from taking benefit.	Time and again extension of cut-off date has encouraged encroachment of Government/ Private Land, apart from the fact that the same is in violation of the Slum Act and should stop somewhere; Slum dwellers claiming benefits in more than one Scheme; Benefits only to be given to genuine slum dwellers; Bogus documents used	By Maha Act. 10 of 2002 [w.e.f. 18.05.2001] [Amendment to The Maharashtra Slum Areas (I. C. & R) Act, 1971], the actual occupier of a dwelling structure, in existence on or prior to **01st January, 1995**, were protected and were entitled f or rehabilitation / relocation. [*See Sec. 3X and 3Y of the Slum Act*].	cut – off date should not be extended in any circumstances, Identification of eligible Slum dwellers, with biometric of actual occupants by linking their Aadhar Card. This data should be centralised. Mobile number of the slum dwellers should also be linked, so as to send draft and final Annexure – II [In short '**Ann – II**'], to them, so that they are aware. Most of time, it is seen that slum dwellers, are not aware of their eligibility status in Ann – II. In Ann – II, eligibility should not be kept undecided [sometimes it is kept pending			T-9	1. The issue regarding cut – off date is answered hereinabove. 2. The SRA is in the process of integrating the Aadhaar database with the SRA's database as well as capturing the slum dwellers mobile number. 3. On timelines for deciding eligibility claims, please refer to the response in Point 16(1) above. 4. The SRA is already working towards satellite surveys to prevent encroachment. 5. The SRA has already issued Circular 222 as per which the names of husband and wife are included as joint owners in Annexure-II. 6. On following the eligibility norms as per

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		for eligibility.	Under this criteria 'Slum Structure' should be in existence prior to cut - off date of 01.01.1995 and further, the 'Slum Dweller' should also be in actual possession prior to cut - off date [i.e. 01.01.1995]. This Hon'ble Court in the matter of *Janhit Manch v. State of Maharashtra* [(2007) 1 Bom CR 329], has held that the cut-off date 01.01.1995, shall not be extended further. Thereafter, in blatant violation of above Judgement of this Hon'ble Court passed in matter of *Janhit Manch* [Supra], Cut off date of 01.01.1995, was extended to 01.01.2000 [By Maha Act. 9 of 2014, S. 2 (w.e.f. 02.05.2014)];' Sale / Purchase after 01.01.2000 of 'Slum Structure' [in existence prior to 01.01.2000], was	for decades]. Satellite survey of Slum Plots, should be done periodic, to prevent further encroachment. The cut-off date of eligibility should be freezed and not to be extended, in any condition. Name of spouse (Husband and Wife) and all actual occupants should be mentioned in Ann – II. Subsequent purchaser after issuance of Ann – II who have actually 'occupied / resided' in slum structure, should be considered for eligibility [as per G.R. dtd. 16.05.2015 and 16.05.2018]. Sec. 3Y of the Slum Act, provides for issuance of Photopass, however, Photopasses are not being issued. Therefore, Competent Authority be directed to issue 'Photopass', to slum dwellers, by verifying their documents, as per law. After issuance of letter of Allotment to the slum dwellers, SRA should also issue 'Identity Card', to the allottee having photograph of Husband, Wife and other family members of allottee.				the Government Resolutions dated 16.5.2015 and 16.5.2018, the same is being implemented by the SRA. 7. On issuance of photo-passes, please refer to the response in point 11(1) above. 8. The SRA will issue an identity card after allotment of rehab tenements to slum dwellers.

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			permitted by G. R dtd. 16.05.2015. Slum Structure which have come up after 01.01.2000 till 2011, are also now entitled for rehabilitation, subject to payment of prescribed fee / cost vide G.R dtd. 16.05.2018.					
18.	Procedure for issuance of Annexure-II and its finality.	Annexure-II records the details of the existing occupants occupying the area covered by SR Scheme and which occupants are eligible / ineligible, determining the number of slum dwellers that are to be rehabilitated. Presently, Annexure-II for various land owning bodies like MHADA, MCGM, MMRDA is verified by their internal agencies as against central agencies of Deputy Collecto rs stationed in SRA, due to which issuance of Annexure-II takes anywhere between 6 months to a decade. Powers of various Deputy Collectors with regards to approval of Annexure II are now	Notification N o. Sankirna-2020/CR-18/Zopani-2 dated 12th August 2021 issued by Housing Department, Maharashtra. Reg.33(10) (2.2), DCPR 2034. Admin. order dated 3rd October 2023 issued by SRA.		For proposed measures mentioned from (a) to (d): (a) The proposed measure can be implemented under existing law by passing similar notification under Sections 3(1), 3Y(1) and 35(1) of the Act appointing appropriate authorities under SRA delegating powers for issuance of Annexure-II. (b) Issuance of regulations under Section 3V consistent with the Act, for implementation of the proposed measures; the verification and issuance of Annexure-II, in a streamlined and timely manner.	For propose d measure at (e): Amendment of DCPR 203 4 [Regulation 33(10)] for consistency between the Act and the regulations under DCPR 2034, as provisions of both legislations are required to be followed for a timely implementation of the SR Scheme, and therefore, they cannot b e contradictory to each other. The general Slum Rehabilitation	T-8	The issue concerning preparation of Annexure II is answered hereinabove.

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		designated to one single Deputy Collector of SRA. Case by case declaration of Annexure II causes overlap, dual benefits to the same slum dwellers in two different schemes, allows introduction of additional slum dwellers vide Supplementary Annexure II. *The present procedure for issuance of Annexure-II is elaborated in our Affidavit at para. no.3 (Issue 1).*				Scheme under Section 3B of the Act to be amended accordingly.		
19.	Identification of slum dwellers	Slum dwellers who have no experience and right over land cannot be expected to manage their societies.	Maharashtra Co-operative Societies Act	1. Once a plot is declared and published on the website as a slum plot, SRA will appoint a separate professional management agency for every slum plot that will guide slum dwellers at all stages. The agency must have a minimum number of professionals and should have satisfied the eligibility norms for appointment/selection. The fees will be partly paid by the slum dwellers as scrutiny of eligibility and partly by SRA. 2. Once a plot is declared as a slum, every occupant and his family members must register themselves by using a public data entry module on their own on a dedicated user-friendly government website against their respective structure with			A-11	The said issue is already addressed. So far as electricity bills and the account, the same is already connected. The SRA is in the process of linking Aadhaar.

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				payment of certain fees for scrutiny. Fees will be increased gradually after the cut- off date has expired. Also, it will be the responsibility of the Agency to ensure that data of occupants of every structure in the plot are entered on the website. 3. The concerned authorities shall also enter or link their data related to structures and other details. 4. As soon as a person registers with the website, the occupant and his family members shall be permanently disentitled from rehabilitation rights in future except for the present structure. 5. The website will be connected with and authorised to use/verify the data from the concerned govt authorities and utility providers viz electricity suppliers, telephone, banks, LIC etc election authority, Aadhar, Income Tax, BMC etc for KYC verification. Most of the data will be captured from the other websites linked. This will make public data entry simple and avoid duplication of data and instant verification of KYC data entered. 6. Effective integration of all concerned authorities with this website is a key to success. 7. Since the website will be linked with the Election				

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				Authority's Website, the voting rights of all slum dwellers shall stand suspended till he has vacated their respective structures. This will permanently end unholy electoral politics. 8. The Agency for the Slum Plot completes preliminary verification within the stipulated time. 9. The website will have an in-built verification process like the IT/GST Website. This will be the second verification. 10. The third verification will be done through trained officials / independent professional agencies without interacting with the slum dwellers or any other person, directly like a faceless assessment done under IT/GST. At this stage, the eligibility decisions of most occupants will be cleared based on standardized data. 11. As soon as the third verification stage is cleared and viable slum pockets are decided, the Cooperate Dept will automatically register a society for that slum pocket. 12. As soon as the third verification stage is cleared, the agency for the slum pocket shall call a common meeting of all eligible members of the particular slum plot and slum dwellers shall appoint the managing committee for that				

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				pocket. The agency will enter details on the website for the society already registered for that pocket. The Managing Committee· will function as per applicable Cooperative Rules. 13. The fourth verification will be done through designated officials in decisions related to genuine typical non-standardised cases/disputes. 14. The above processes will be done simultaneously and in parallel with a deadline for all Stages.				
20.	Creation of slum societies	There are no clear directions/circulars mandating on what basis the formation of the society is to be done. Often, there are a number of societies on one CTS number or a one society across a number of CTS numbers		There should be identification of slums by the State Govt./SRA. The criteria for formation of slum societies should be clearly spelt out. The process of election of promoters should be supervised by the SRA.			A-17	As regards procedure for formation of Society, the same is governed by the Circulars of the SRA.
21.	Identification of genuine Slum Dwellers [Eligibility], recorded at a centralized data base, so that undeserving slum dwellers should not take benefits.	Time and again extension of cut-off date has encouraged encroachment of Government/ Private Land, apart from the fact that the same is in violation of the Slum Act and should stop somewhere;	By Maha Act. 10 of 2002 [w.e.f. 18.05.2001] [Amendment to The Maharashtra Slum Areas (I. C. & R) Act, 1971], the actual occupier of a dwelling structure, in existence on or prior to **01st January, 1995**, were protected and were entitled f	a. cut – off date should not be extended in any circumstances, b. Identification of eligible Slum dwellers, with biometric of actual occupants by linking their Aadhar Card. This data should be centralised. Mobile number of the slum dwellers should also be linked, so as to send draft and final Annexure – II [In short '**Ann – II**'], to them, so that they are aware. Most of time, it is seen that slum			T-10	Please refer to point 17 above.

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			or rehabilitation / relocation. [*See Sec. 3X and 3Y of the Slum Act*]. Under this criteria 'Slum Structure' should be in existence prior to cut - off date of 01.01.1995 and further, the 'Slum Dweller' should also be in actual possession prior to cut - off date [i.e. 01.01.1995]. This Hon'ble Court in the matter of *Janhit Manch v. State of Maharashtra* [(2007) 1 Bom CR 329], has held that the cut-off date 01.01.1995, shall not be extended further. Thereafter, in blatant violation of above Judgement of this Hon'ble Court passed in matter of *Janhit Manch* [Supra], (i) Cut off date of 01.01.1995, was extended to 01.01.2000	dwellers, are not aware of their eligibility status in Ann – II. c. In Ann – II, eligibility should not be kept undecided [sometimes it is kept pending for decades]. d. Satellite survey of Slum Plots, should be done periodic, to prevent further encroachment. e. The cut-off date of eligibility should be freezed and not to be extended, in any condition. f. Name of spouse (Husband and Wife) and all actual occupants should be mentioned in Ann – II. g. Subsequent purchaser after issuance of Ann – II who have actually 'occupied / resided' in slum structure, should be considered for eligibility [as per G.R. dtd. 16.05.2015 and 16.05.2018]. h. Sec. 3Y of the Slum Act, provides for issuance of Photopass, however, Photopasses are not being issued. Therefore, Competent Authority be directed to issue 'Photopass', to slum dwellers, by verifying their documents, as per law. i. After issuance of letter of Allotment to the slum dwellers, SRA should also issue 'Identity Card', to the allottee having photograph of Husband, Wife and other family members of allottee.				

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			[By Maha Act. 9 of 2014, S. 2 (w.e.f. 02.05.2014)];' (ii) Sale / Purchase after 01.01.2000 of 'Slum Structure' [in existence prior to 01.01.2000], was permitted by G. R dtd. 16.05.2015. (iii) Slum Structure which have come up after 01.01.2000 till 2011, are also now entitled for rehabilitation, subject to payment of prescribed fee / cost vide G.R dtd. 16.05.2018.					

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION
SUO MOTO WRIT PETITION NO. 1 OF 2024

IN RE: PERFORMANCE OF AUDIT OF THE MAHARASHTRA SLUM AREAS (IMPROVEMENT, CLEARANCE AND REDEVELOPMENT) ACT, 1971.

…Petitioner

Versus

THE STATE OF MAHARASHTRA & ORS.

…Respondents

SUGGESTIONS FOR SELECTION OF DEVELOPERS

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1.	Selection of developer through proposed auction process	The entitlement of a slum dweller is the rehabilitation unit (area of which is prescribed by the State Government from time to time) and rent or temporary accommodation. Further, Regulation 33(10) of DCPR 2034, also makes provision of certain amenities that are to be made available to rehabilitation buildings. Hence, there is a lack of biddable item basis which selection of a developer can be undertaken. Issuance of bid/tender may render the entire auction process susceptible to legal challenge and various legal proceedings by not only developers but also by slum dwellers and/or landowner.	Section 2(c-a) of the Slum Act read with Regulation 33(10) VI 1.15	Selection of a developer may be undertaken under supervision of a designated authority, so as to ensure transparency and avoid duplicity. This will also address the concern of consents being given by slum dwellers to multiple developers and stalling the slum scheme. Criteria may be introduced for selection of a developer with respect to a slum scheme. Some of these criteria may depend upon the cost of project in the slum rehabilitation scheme and total area to be constructed. Only such developers ought to be permitted to be selected who have undertaken at least 3 projects in the last 10 years involving similar costs, total area and magnitude. Further, minimum net worth of the developer depending upon the scale of the project and costs involved can also be a criteria. It is submitted that only the developers who satisfy such a stipulated criterion may be permitted to submit their proposals for implementing a slum rehabilitation scheme.	No.	SRA may devise a mechanism for selection of developer under the supervision of designated authority. Basic criteria ought to be formulated to bid for slum scheme depending upon the size of the slum, built up area involved, project costs involved. Only such developers ought to be permitted to be selected who have completed atleast 3 projects of similar scale, minimum net worth of the developer depending upon the scale of the project and costs involved can also be a criteria. It is submitted that only the developers who satisfy such a stipulated criterion may be permitted to submit their proposals for implementing a slum rehabilitation scheme.	T-7	1. The SRA has addressed a letter to the State Government seeking approval for auctioning slum schemes on government lands which are stalled. 2. So far as new slum projects are concerned on either private or government lands, the process as specified under the DCPR 2034 shall be followed, and in projects where the process of auction is possible, the same shall be adopted. 3. SRA is now proposing to impose a criteria for determining financial capacity and technical capacity for selection of developers.

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2.	Stalled projects	There exists several slum projects which are stalled and the developer who has been selected has defaulted in implementation of the scheme and has been removed under section 13(2) of the Slum Act.	Section 2(c-a) of the Slum Act	It may be considered to appoint a developer from a panel of developers who meet the minimum criteria such as (i) only those developers who have undertaken at least 3 projects in the last 10 years involving similar costs, total area and magnitude; (ii) minimum net worth of the developer depending upon the scale of the project and costs involved. It is submitted that only the developers who satisfy such a stipulated criterion may be permitted to submit their proposals for implementing a slum rehabilitation scheme.	Yes. Proposed Measure / Solution require amendment of law by Legislature.	The mechanism for selection of a fresh developer as iterated above can be adopted. Selection of developer under the supervision of designated authority. Only such developers ought to be permitted to be selected who have undertaken at least 3 projects in the last 10 years involving similar costs, total area and magnitude. Further, minimum net worth of the developer depending upon the scale of the project and costs involved can also be a criteria. It is submitted that only the developers who satisfy such a stipulated criterion may be permitted to submit their proposals for implementing a slum rehabilitation scheme.	T-7	1. The State Government along with the SRA has prepared a panel of developers and tried to auction stalled projects to such developers. However, no proposals have been submitted by such developers. 2. Instead of a panel of developers, as stated above, the SRA is proposing to impose selection criteria for appointment of developers which will ensure participation.

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3.	Limited or no options for slum dwellers in selection of developers, irregularities and ill egalities in slum schemes	Since slum redevelopment projects can only take place *if* a developer comes forward to prepare a scheme, and a developer will only come forward *if* the scheme seems profitable – a large number of slum rehabilitation projects do not start or stall mid-way because developers find them financially unviable. Slum redevelopment projects for developers are driven by business interests, and unlike redevelopment of CESSED buildings or cooperative societies, slum dwellers have very little bargaining power vis a vis developer. There have been numerous documented studies of bullying, intimidation and coercion by promoters over slum dwellers.		**Options for voluntary in-situ rehabilitation:** After the provision of improvement works, if slum-dwellers are keen on redevelopment, two *alternatives* for voluntary slum rehabilitation may be offered: (a) redevelopment through a voluntary organisation or a developer; (b) redevelopment through a public authority (SRA or MHADA, MMRDA). **Lease of slum land to slum dwellers' cooperatives before redevelopment:** One of the reasons for regulatory capture is that the slum dweller cooperatives have a weak financial as well as bargaining position with respect to the developer and the authorities. If the government is serious about improving the condition of slum dwellers, it would consider leasing slum land to slum-dwellers cooperatives, which will allow the society to then be on an equal footing with the developer. If slum-dwellers are unable to engage a developer, they will be in a position to secure loan finance for taking up self-development as owners of land. **Protocol for Slum Redevelopment projects on lines of the Co-op society redevelopment directive:** Slum dwellers' cooperatives can then engage developers as land owners, and the guidelines modeled on the directive issued under the Cooperative Societies Act 79(A) can be made applicable to slum redevelopment projects.	Amendment to the Slum Act; a directive from the High Court bringing slum rehabilitation schemes within the purview of the RERA Act. Directive on lines of 79(A) of the Cooperative Societies Act for Slum Redevelopment projects.		T-6	1. Regulation 33(10) V of the DCPR, 2034 already allows approved NGOs registered under the Maharashtra Public Charitable Trusts Act, 1961 and the Societies Registration Act, 1960 for at least for the last five years to redevelop Slum Rehabilitation Areas. 2. SPARC, an NGO, has already been carrying out a slum rehabilitation scheme. SRA also provides 5% additional sale FSI to such schemes. The CEO also has the powers to entrust the Slum Rehabilitation Scheme to agencies such as the MHADA MMRDA. In fact, 228 schemes have been allocated to public authorities like the MCGM, CIDCO, MahaPREIT, MHADA,

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								MSRDC and MMRDA under the joint venture policy which will complete allotment of 2,18,931 tenements within three years. 3. Leasing government land to slum dwellers will not lead to transfer of ownership and therefore, not affect bargaining powers of the slum dwellers.
4.	Developers easily manipulate the slum scheme by fraudulently showing the required consent of the slum dwellers.	Reduction of consent from 71% to 51% of the eligible occupants.	33 (10) VI 1.15, DCPR, 2034	Restoration of 71% consent of the eligible slum dwellers. Withdrawal of the provision which reduces the 71% criteria from DCPR 2034.	Yes		T-6	1. Circular 144D adequately addresses this issue. 2. On forged consent, please refer to the response in point 9 Table 2.
5.	Transferring SRA schemes to different developers without th e permission of SRA: When Developers who don't have the financial	These Developers make fraudulent Annexure III submissions to the SRA and the SRA approves their proposals without proper verification of their financial standing.	GR dated 25.05.2022 GR dated 09.12.2022 GR dated 07.06.2022	Lease agreement must be signed b/w the slum dwellers and land-owning authority with a clause stating that no encumbrances should be created on the land and any changes / alteration in the scheme should first get approved by the majority of slum dwellers, SRA and land-owning authority. The agreement should clearly specify the project completion timeline, whether transit housing or rent will be provided, and the exact amount of rent, if applicable. Additionally, the layout plan and terms	Yes		T-6	1. As for the apprehension on fraudulent Annexure-III, in no case has the SRA come across a fraudulent Annexure-III. 2. So far as the apprehension that the developer is

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	standing to execute the project get approval from SRA, they either appoint another developer to execute the scheme or sell the project to make undue profits.			and conditions agreed upon with the SRA must be fully disclosed to the slum dwellers to ensure transparency throughout the process.				incapable of executing a slum scheme, as stated above, selection criteria for developers are being proposed. 3. Executing a lease agreement with slum dwellers will in no way further the execution of the slum rehabilitation scheme. 4. The necessary clauses as suggested are already incorporated in the individual agreements between the slum dwellers and the developer. 5. The SRA has now started an online building plan approval system so that all the details of buildings will be available to the public.
6.	Multiple Developers submit proposals for the same slum rehabilitation scheme creating confusion, delay and conflict.	No clarity in the laws.		There must be a time limit within which the project should be completed. During this period, no changes to the developer should be allowed, and no new developers should be introduced unless the approved developer fails to comply with the terms and conditions of the agreement.	This can be done by issuing Notifications/Resolutions/ directives.		T-6	1. In so far as submission of proposal is concerned, at one time, only one proposal is considered by the SRA in accordance with the decision in

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								the case of Awadesh Tiwari. 2. As regards, the time limit of completion, timelines within which the project has to be completed is already mentioned in the LOI issued by the SRA. The option to change developers was introduced to tackle situations where developers wouldn't meet their project obligations including payment of transit rent. However, if the developer is paying rent on time and/ or carrying out work as per the schedule submitted by him, then no new developer is appointed.
7.	Financial capacity of the builder	Many projects are stalled due to the financial incapacity of builders to complete the project or provide transit rent (as per a recent news article transit rent exceeds 1000 crore rupees). Lives of slum dwellers are destroyed when builders stall the project or		All government authorities should become the developers on their land allowing the creation of redeveloped as well as project affected tenements in the city. There must be full disclosure of the land available and the land required for housing to ensure transparency in the project. Competent authorities should take full responsibility along with builders if project fails due to financial incapabilities as they approve			T-6	1. On allowing land owning authorities to carry out rehabilitation schemes, please refer to the response in point 9 of Table no. 1. 2. As of date, the SRA

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		stop transit rent due to lack of sufficient finances. Authorities don't examine the builder's financial capacities properly and housing society committee members often get corrupted and allow the project to start. This situation has stalled nearly 500 projects.		financial plans of developers. A forensic audit should be done of the proposed Developers to ascertain their financial viability. Developers who default on paying transit rent should be excluded from the scheme, and the SRA should assume the responsibility for completing the project. **Circular 210 states that developers who are marked as defaulters in paying transit rent to the slum dwellers in the previous projects should be marked as blacklisted and be refrained from taking up new projects. This should be extended to their sister companies/ concerns and also family members.**				is already taking responsibility for schemes where the developer does not perform by changing the developer under Section 13(2). 3. Conducting a forensic audit of the developers is not required given the criteria for appointment of developers is under consideration of the SRA. 4. The SRA is already changing developers who are not paying transit rent. The developer is also not eligible to submit a new scheme till the outstanding rent is cleared as per Circular 210. 5. Henceforth, the SRA will also temporarily suspend associated enterprises or related parties of errant developers until the outstanding rent is cleared. 6. On blacklisting of developers, the SRA is considering formulating a policy.

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8.	Concessions/ Amnesty Given to Developers	Concessions are being given to the developers by handing over public land to them. Instead of penalizing the defaulting developers, who are unable to complete the Rehabilitation Schemes even after 10-15 years, they are being gifted the amnesty scheme. This is because SRA schemes, over the years, have become profit centric, instead of being viewed as a necessary process to ensure right to housing of the affected slum dwellers.	33(10) VIII 6, DCPR, 2034. Government resolution dated 07.06.2022, to implement amnesty scheme to complete stalled SRA Schemes. Government resolution dated 25.05.2022, regarding measure to be taken to complete stalled slum rehabilitation schemes. Government Resolution dated 09.12.2022, regarding taking measure to complete stalled slum rehabilitation schemes. Circular Number 216 by the Engineering department dated 21.02.2024 by way of which the defect liability period from 3 to 10 years.	Heavy penalties should be imposed on developers who have defaulted to make good the terms and conditions of the development agreement – if they have been found to be in non-compliance of it. Developers should be backlisted in case of default. There should be an empaneled list of developers who have a track record of completing SRA projects on time, and only when due background check is done, developers should be given projects. The procedure should be similar to the one provided for selecting a developer under the Maharashtra Co-operative Societies Act.			T-6	1. So far as imposition of penalties is concerned, the SRA will address a representation to the State Government for reduction of incentive sale FSI. The SRA is also considering increasing the quantum of bank guarantees and forfeiture thereof. 2. On blacklisting of developers, the SRA is considering formulating a policy. 3. On empanelment of developers please refer to response in point 2 in Table No. 3.

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9.	Handful members of the society decide the faith of every members of the Society.	Some member of the society are feed by the Developer to appoint them as developer for the Project		Development to be done by appointing contractor by E-Tender process as followed by the MHADA, MMRDA in Public infrastructure projects etc.	Necessary amendments in the current legislation is required.	Development through developer should be terminated.	T-1	Seeking consent is a mandatory and crucial part of the slum rehabilitation process. Additionally, where the owners have failed or projects have been stalled, the SRA is considering issuance of tenders for ward-wise clusters of slum pockets for which the developer will be appointed through e – tendering.
10.	Financial capacity check. Relaxation in mandatory conditions of LOI	Relaxation in financial capacity norms by chief executive office and finance controller.	SOP present	Power of the CEO SRA for relaxation in financial capacity of developer should be abolished. Disciplinary action should be initiated against the officer not following the law	Required amendment in current legislation	Power of the CEO SRA need to be curtailed for relaxing the conditions while granting LOI e.g. Fire NOC, Environment NOC, Playground reservation, Airport authority NOC etc. conditions are relaxed without verifying the consequences of his act	T-1	1. There is no SOP present for relaxing financial capacity norms by the CEO. Financial capacity is and will be ascertained for all projects. 2. All norms as to fire NOC, environmental clearances, airport restrictions are strictly adhered to. Relaxations as regards building constructions are made only as per clause 6.17 of Regulation 33(10) of the DCPR. These relaxations are made only to make the scheme feasible with reasons to be recorded in writing. 3. On disciplinary

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								action against errant officers, please refer to the response in Point 5(5) in Table 1.
11.	In terms of section 13 (1) of the Slum Act, a private landowner gets an unqualified right to submit a Slum Rehabilitation scheme in respect of its own property within a period of 120 days from the date of declaration of the land as Slum Rehabilitation Area. The section does not require landowner to obtain consent of slum dwellers and or society of slum dwellers for implementing a slum rehabilitation scheme. However, under Regulation 33(10) of DCPR	Clause 1.15 of Appendix-VI of Regulation 33 (10) of DCPR 2034 imposed a restriction on the unqualified preferential right given to the landowners to implement a slum rehabilitation scheme. This is because a landowner may not be able to obtain requisite consents from the slum dwellers from his property for various reasons including but not limited to the malicious intent of slum dwellers to appoint a Developer of their own choice	Section 13 (1) of the Slum Act Clause 1.15 of Appendix-VI of Regulation 33 (10) of DCPR 2034 Circular 144A Section 158 of MRTP, 1966	As clause 1.15 of Appendix VI of Regulation 33(10) of DCPR 2034 is not made applicable to the Government agencies, in a similar manner this clause should also be made inapplicable to the landowners developing their property by implementing Slum Rehabilitation Scheme by exercising the preferential rights envisaged under section 13(1) of the Chapter IA of the Slum Act.	A suitable Amendment of clause 1.15 of Appendix-VI of Regulation 33 (10) of DCPR 2034 to do away the requirement of obtaining requisite consents of slum dwellers when a landowner is implementing the Slum Rehabilitation Scheme.	After proviso appearing in DCPR 33(10), Appendix-VI clause 1.15, the following second proviso may be considered to be inserted: "*Provided further that nothing contained herein shall apply to Slum Rehabilitation scheme being undertaken by private landowners on its own property or land in terms of Section 13 (1) of Chapter IA of the Slum Act"*	T-5	The State Government will suggest the State Legislature to waive the consent requirement for slum rehabilitation schemes on privately – owned lands as well.

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	2034, clause 1.15 of Appendix-VI developer is required to submit consent of 51% of slum dwellers from the property. This condition prescribed under the DCR of obtaining slum dwellers' consent for implementing Slum Rehabilitation Scheme often impedes the landowner's preferential right (contemplated under Section 13(2) of the Slum Act) as land owner may find it difficult to obtain consents of slum dwellers. Failure to obtain requisite consents may also result in cancellation of LOI which is as good as depriving the landowner of his valuable right of							

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	enjoying the benefits of ownership of his land.							
12.	As per Circular 144 issued by SRA, a Developer is required to submit a proposal in a manner stipulated thereunder. As per the prevailing practice, a Developer is required to submit Annexures-I to V along with its proposal. Such proposals are to be submitted with the Chief Clerk of SRA who thereafter forwards proposal to various departments for obtaining necessary NOCs. It is upon receipt of all	The cause of the problem is on account of the fact that currently there are no guidelines stipulated either under the statute or regulation or circular that requires SRA department to process proposals in a time bound manner. Therefore, faulty proposals though prima facie appear, complete often kept under consideration for inordinately long period. Such issues often result in delay in implementing the S.R. Scheme. More so, in view of the principles of law laid down by our Court in various judgments simultaneous filing of proposals for same slum pocket is also barred. Therefore, unless a proposal filed is rejected after a scrutiny, no subsequent proposals can be entertained. This practice sometimes block genuine proposals at the instance of malafidely	Circular 144	This problem can very well be addressed by laying down guidelines that will require SRA departments to scrutinize the proposals and issue letter of rejection / acceptance in a time bound manner.	Yes. Necessary guidelines can be laid down under Section 3V of the Slum Act.	No.	T-5	The SRA will impose strict deadlines for each department to finalize their remarks on proposals under Circular 144 and 144A.

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	such NOCs of 5 departments, the Executive Engineer analyses /examines proposals and prepares Letter of Acceptance / Rejection of the Proposals. Currently, there is no time limit which requires the SRA to analyze proposals filed and communicate its decision regarding acceptance or rejection of the proposals. This more often than not culminates into delay in implementing the Slum Rehabilitation Scheme.	filed prior proposals and block the entire scheme.						

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13.	It is under the current scheme of things, a right to appoint Developer to implement the Slum Rehabilitation Scheme is entirely vested with majority of slum dwellers residing on a piece of plot which is to be developed. This often results in *inter se* fighting amongst factions of slum dwellers over the choice of developer. This *inter se* fighting very often results into the proceedings for termination of developer. Due to such proceedings, it is seen that slum schemes get completely derailed for years altogether owing to the pendency of litigation.	Under the current statutory provisions and as per Regulation 33(10) of DCPR 2034, slum dwellers are vested with power to appoint a Developer. This power is often misused as it is quite easy to manipulate the loyalties of slum dwellers. Because of the exclusive right given to the slum Societies which is often misused many a times, third party developers interject / interfere in the SR schemes (by manipulating slum dwellers) to take over the Project. Such competition between the Developers often results in lengthy litigation that goes on for years altogether thereby irreversibly prejudicing the legislative object behind the slum schemes.	Clauses 1.14 and 1.15 of Appendix-VI of Regulation 33 (10) of DCPR 2034	As per the current regulations, in the process of implementing a Slum Rehabilitation scheme, an absolute and complete right to choose a developer is given to slum societies of slum dwellers albeit with the approval of SRA. This often results into infightings and inter se bidding between the Developers who are preferred by two factions of slum dwellers from the same society. Such method does not only create unhealthy competition and rivalry between two factions of same slum society but also triggers various malafide means to achieve desired objectives. In order to ensure that participation of societies in the process of appointing a developer is either completely eradicated or minimized, it is necessary that a developer to implement a piece and parcel of any land is appointed directly by SRA (without any intervention from slum dwellers) by adopting fair and transparent bidding method. This is because, it is immaterial for a slum dweller developer if Developer A or Developer B is implementing a Slum Rehabilitation Scheme. Further, while adopting a method of choosing a developer by direct bidding process the following parameters can be kept in mind. Annexure-II of Slum Dwellers be prepared by competent authority on an application of a slum society seeking rehabilitation. A report of Executive Engineer SRA setting out development potential and other statutory requisites (such as title, access, FSI available and details of Annexure II and PAPs to be generated) of land to be redeveloped be formulated before inviting bids and be included in and made a part of tender document to be published for inviting bids. The report of Executive Engineer shall also refer to a list of NOCs of various departments to be obtained by a successful	Appendix-VI of Regulation 33(10) of DCPR 2034 will have to be suitably modified to introduce the process of tendering, bidding and choosing of a developer.	Appendix-VI of Regulation 33(10) of DCPR 2034 will have to be suitably modified to introduce the process of tendering, bidding and choosing of a developer. In order to ensure that participation of societies in the process of appointing a developer is either completely eradicated or minimized, it is necessary that a developer to implement S.R Scheme is appointed directly by SRA (without any intervention from slum dwellers) by adopting fair and transparent bidding method. This is because, it is immaterial for a slum dweller if Developer A or Developer B is implementing a Slum Rehabilitation Scheme. Further, while adopting a method of choosing a developer by direct bidding process the following parameters can be kept in mind. Annexure-II of Slum Dwellers be prepared by competent authority on an application of a slum society seeking rehabilitation. A report of Executive Engineer SRA setting out development potential and other statutory requisites (such as title, access, FSI available and details of Annexure II and PAPs to be generated) of land to be	T-5	Please refer to the response in Point 1 in Table No. 3.

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				bidder for the purpose of implementing the scheme. The terms and conditions of tenders must essentially highlight period of completion of the project in a Phase wise manner to ensure timely rehabilitation of slum dwellers.		redeveloped be formulated before inviting bids and be included in and made a part of a tender document to be published for inviting bids. The report of Executive Engineer shall also refer to a list of NOCs of various departments to be obtained by a successful bidder for the purpose of implementing the scheme. The terms and conditions of tenders must essentially highlight period of completion of the project in a Phase wise manner so as to ensure timely rehabilitation of slum dwellers.		

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14.	Deprivation of a Landowner in developing his own land due to unnecessary interference from slumdwellers / society of slumdwellers and occupants.	Slumdwellers / societies of slumdwellers/ occupants unnecessarily create hurdles and hinder a Landowner from redeveloping his own land, despite slumdweller's in most cases not having any title to the land but merely being entitled to tenements by virtue of their possessory rights.	Indian Cork Mills vs State of Maharashtra (2017 SCC Online Bom 2744) Bishop John Rodrigues V/s State of Maharashtra (2024 SCC Online Bom 1632)	The preferential right of a private landowner ought to translate into the following: – The right that private property will not be acquired by the State Government under section 14 of the Slum Act unless all the requirements of that section are met, and A positive right as a landowner to be granted the right of firs..t refusal to redevelop the land and rehabilitate the slumdwellers in accordance with law. In the case of land belonging to private landowners, the societies of slum dwellers/occupants should have NO right to appoint or not have say in appointing the developer to undertake the slum rehabilitation project, unless the landowner expresses his inability to undertake a Slum Rehabilitation Scheme and till the land is acquired by the SRA under section 14 of the Slum Act. It is respectfully submitted that the sequence in which the option of undertaking a redevelopment project on private land ought to be as explained hereunder: – The first option should be given to the landowner himself to undertake the redevelopment project, either, by himself, or by appointing a developer of his choice who will undertake the redevelopment project on his behalf. Needless to state, there must be adequate safeguards to ensure that all eligible occupants whose names appear in Annexure II will get the tenements on redevelopment. It is necessary to give a complete go by to the right which the Occupants/ Slumdwellers have to appoint a developer when the	NO.	Once a private landowner exercises the right to redevelop his own land, in addition to that option first being offered to him as his right, by virtue of being the landowner, there must be some additional tangible and procedural benefits which the landowner will get to facilitate th e implementation of the object of the Slum Act, i.e. to rehouse the slum dwellers and to redevelop his own land like simplification of procedure since it is exceedingly difficult for individual and private landowners to redevelop their own properties. Hence, positive steps ought to be taken and prescribed which will act as an incentive to private landowners to participate in slum rehabilitation projects on private land. These may be in the form of statutory amendments or regulations, as may be thought appropriate. Section 17 of the Slum Act should be amended to provide that the compensation under sec 17 should be calculated in accordance with the	T-3	1. The issue as regards the preferential rights of the owners and the interplay between Section 13(1) and Section 14 is *subjudice* before the Hon'ble Supreme Court in the case of Bishop John Rodrigues V/s State of Maharashtra. 2. As regards, compensation under Section 17, a statutory amendment would be needed.

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				landowner himself is willing to redevelop his own land, either, by himself or by getting it implemented on his behalf. This is because the involvement and participation of the society of Slumdwellers/Occupants gives rise to a lot of practical problems, litigations and disputes between competing rival builders who want to profiteer from the redevelopment and not to rehouse the Slumdwellers/Occupants and this invariably results in the slum rehabilitation project being delayed. Hence, it is respectfully submitted that the Body/Society of Slumdwellers/Occupants should have neither a right to appoint a developer nor any say in appointing a developer if the redevelopment is undertaken by the landowner either, by himself, or by appointing a developer of his choice. It is only when the landowner communicates his unwillingness or inability to undertake redevelopment of his own land, either through himself or through a developer who he will appoint, should other modes and options of redeveloping the land be explored. In such a situation, the land should be acquired under Sec 14 of the Slum Act, after the SRA has identified who or which agency will undertake the redevelopment of the slum, and, its manner and terms. The SRA may at this stage consider whether any developer brought forward by the Body/Society of Slumdwellers/Occupants is suitable to undertake the Slum Redevelopment project. The acquisition under Sec 14 must only take place on the landowner receiving his full compensation from the person who will undertake the Slum Redevelopment project and redevelopment, unless otherwise agreed.		Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.		

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				Hence receipt of full consideration by the landowner and divesting the landowner of his title must take place simultaneously and in one go. If the full compensation to be received by the landowner is not to be received by the landowner in its entirety before acquisition under sec 14, but in accordance with sec 17(2) of the Slum Act, then there must be adequate safeguards to ensure that landowners are not divested of their title till they receive the full compensation, irrespective of whether such compensation is to be received in area on construction, money, or, both. Lastly, on this aspect, it is respectfully submitted that the quantum of compensation which a landowner receives is unrealistically low. It is respectfully submitted that the State Government should take cognizance of this and review and amend Sec 17 of the Slum Act so as to ensure that the quantum of compensation which a landowner receives on acquisition of his land is fair, realistic and commensurate with land prices in Mumbai. One option is to provide that the compensation under sec17 should be calculated in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.				
15.	Unfair practice adopted while appointment of Developer.	At present, the S. R Scheme starts from calling a Special General Body Meeting [In short '**SGBM**'], which is mostly Developer sponsored and chaired by their associates and in this 1st Special GBM required resolution are passed as under: *agreeing to form a Society,*		That the slum dwellers of the area should come together, by calling SGBM for formation of Society, for the purpose of implementation of S. R. Scheme. No Developer should be appointed in this SGBM. In case, the slum dwellers do not come forward, then SRA should identify such slum areas and give some time period [say 180 days] to form Society and apply to SRA for implementation of the S. R.S and			T-9	Please refer to the response in Point 4 in Table No. 3.

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		for implementation of S. R. Scheme; *appointment of Chief Promoter and Promoter and giving authority to them to sign documents on behalf of Society,* *appointment of Developer, appointment of Architect,* Then on the basis of this Resolution passed in 1st SGBM, proposals are submitted with SRA and then approvals are obtained. On the basis of this SGBM, statutory and mandatory 51% consent of slum dwellers [earlier 70% consent] are claimed before SRA. It is pertinent to note here is that thereafter, the Society remains 'Proposed Society' that means all initial approvals are granted in favour of Proposed Society, without even getting the Society Registered under Maharashtra Co-operative Societies Act [in short '**Societies Act**']. In other words, due to non - registration of the Society, provisions of Societies Act and the remedies provided therein does not apply to such Proposed Society. However, it is important to		In case of failure, SRA should proceed with the Scheme, by appointing some competent Developer by following Tender process; On the basis of said SGBM, the Society should write to SRA; Co-operative Department of SRA should get the Society Registered immediately and in any case, prior to granting approvals for the Scheme; Simultaneously, SRA should call for Tender from prospective Developers [atleast 05 Developers] within a stipulated time period, by giving wide publication; On the basis of Tenders received from prospective Developers, SRA shall scrutinize the same and then call for SGBM of the Society, which shall be held in presence of Authorized Officer of SRA, who should allow only genuine slum dwellers to participate, after verification; In the SGBM, the Authorized Officer of SRA will explain the S. R. Scheme, including rights of the slum dwellers and put before the General Body the various Proposal received from prospective Developers and then appoint a Developer, on the basis of majority decision [i.e. 51% or more]. The entire meeting should be video recorded.				

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		note that apart from the fact that said SGBM, is mostly sponsored by Developer and chaired by his associates. Other drawback in this process is that this SGBM is not held in the presence of any Officer of SRA, therefore, there is no mechanism to verify participation of genuine slum dwellers in such meeting and thus, the decision making process can also easily be manipulated. Apart from the fact that, it is not an informed decision, and poor slum dwellers, mostly uneducated, put their signature under the influence of Developer and his Associates, who hold such meetings. In most of the cases, it is seen that signatures of slum dwellers are taken while entering for SGBM or by asking them to sign for attendance and then the same are shown as their consent for the S. R. Scheme. The above process is not only filled with flaws, but also results in disputes and multiplicity of litigation.						
16.	Qualification of Developer to be appointed for S. R. Scheme:	Most of the S.R. Scheme which are stalled for years and years together, is due to Developer's financial incapability and lack of expertise to implement the S. R. Scheme. In many		Financial health of Developers and their experience: In case of project involving more than 150 slum dwellers, only those Developer/Builder having minimum experience of past development or redevelopment for atleast 03 years, should			T-9	1. Please refer to the response in point No.1 in Table 4. 2. The SRA has already issued an office order dated

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		cases, it is also seen that the Developers are appointed in S. R. Project having no experience in redevelopment projects and after initial appointment and obtaining LOI, they have traded with the S. R. Project, by giving it to some third party Developer, thereby, substantially affecting the progress of the Scheme. It is also seen that the appointed Developer enters into financial arrangement with third parties, again compromising with the Scheme. Thus, the Scheme today is profit driven, than welfare driven. At present, in the name of checking Financial Status of the Developer, only a certificate from Developer's Chartered Accountant [C.A.], is taken by SRA, without actually verifying Developer's Financial Status. Bank Guarantee [B.G.] – There is no accountability of financial soundness and future stability. No Bank Guarantee are insisted from the Developers.		be appointed; Financial health (including capital, assets, borrowings and balance sheet of last 05 years), should be verified by SRA. Bank Guarantee: Factors such as– (i) number of slum dwellers to be rehabilitated; (ii) size of land; (iii) cost of land; and (iv) time frame of completion of project etc, must be taken into consideration for fixing quantum of 'Bank Guarantee'. This must be made invocable by SRA, when the S. R. Project is delayed. As a safety valve, this B.G. shall safeguard the rights of slum dweller (in case transit rent and corpus fund not paid). This shall also filter-out the undeserving Developers, who enter into the Scheme for generating profit and ultimately transfers / sells the S. R. Project to other Developer for commercial exploitation. This shall, at the first place, avoid entry into S. R. Scheme to undeserving Developers / Builders or Proxy Developers. Developers should be prohibited to enter into any Joint Venture Agreement with third party Developer, without prior approval of Society and SRA. Any such arrangement or Joint Venture should be considered non-est and not binding on SRA and / or Society and shall not give any claim of whatsoever nature in the Scheme. No Developer against whom already 13(2) proceedings is pending before SRA or 13(2) Order passed, shall be appointed as Developer, for any other Scheme.				23rd March, 2015 which levies a 5% fee for change in composition of developer. This office order has been effective and has also been upheld by the Bombay High Court. 3. As regards the suggestion on barring developers who have been terminated under Section 13(2), please refer to the response in this regard set – out above.

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17.	Prolonged disputes regarding appointment process	The office bearers of the Slum dweller's society including promotors are mostly works under the influence of the developer and new rival developers. Due to which, the dispute regards to the process of appointment of the developer is prolonged and has to face various litigations and thereby the SR Schemes are prolonged and delayed and the competition between the developers rises. Further, consequently, rise of separate groups of Slum dwellers are created		The Slum dwellers society managing committee / promotors be automatically dissolved for each 3 years and the existing members of the said managing committee/promotors should not be allowed to recontest and the new Slum dwellers should be appointed to the same.	Yes	Provisions in this regard be incorporated in the Slum Act.	A-10	The SRA has, on 23rd April, 2024, issued Circular 144D. Under the said circular, the meeting for appointment of the developer is called by the AR department of the SRA. A record of all persons attending and voting at this meeting is also maintained and it is videographed. This measure addresses the issue of formation of rival societies as now the SRA has a record of all persons voting during the appointment of the developer, which was earlier absent.
18.	Selection of a developer		Town Planning Scheme (TPS), feasibility and other defined parameters; E-auction processes implemented in telecom, coal sector, NHAI etc. RERA Act, 2016 has been enacted to bring standardisation, accountability, professionalism, and transparency in the real estate sector. It isa complete code. Section-88 makes the RERA Act overriding	1. Once the third verification stage is cleared, the SRA will start studying/deciding the viability of the slum schemes on each plot. The agency of each plot shall verify the viability report. 2. Defining slum POCKETS based on Town Planning Scheme (TPS), feasibility and other defined parameters. 3. Non-viable small plots shall be compulsorily clubbed with the viable slum plots, as a condition. 4. Plots having reservations will be compulsorily clubbed with the viable plots, as a condition. 5. Authority will club occupants of a non-viable plot or reservation plot with adjoining or other slum plots. 6. The slum pockets will be finalized strictly as per the TPS norms, issues of getting right of way etc will not arrive in future. Also, the development will be done in a well-planned manner.			A-11	1. The RERA applies to real estate projects, which, by definition, mean development or conversion for the purpose of selling. Similarly, Section 3(2)(c) of the RERA excludes redevelopment projects which do not involve marketing, advertising and/or selling, as was also ruled by the MahaRERA in 2022. Thus, the scope of both the Acts is different. Specifically, it

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			effect over all prior laws. Still, multiple regulators regulate the real estate sector including SRA for slum schemes. A large no. of projects got stalled. This is causing great injustice and losses to the ultimate stakeholders for no fault on their part and frustrating/defeating the objectives of RERA. RERA Act already has effective provisions u/s 6 for an extension if the project remains incomplete after the expiry of the validity of the registration, revocation of registration u/s 7, completion of an incomplete project whose registration is lapsed or revoked u/s 8.	7. Eligibility of structure (in addition to occupant's eligibility) shall also be considered while deciding any benefit of the Slum Scheme. Non-eligible or new structures after the present cut-off date of the year 2000 shall NOT be counted while calculating plot density based on structures. So new illegal structure construction will be discouraged permanently. 8. Split structure i.e. division of one existing structure into two new structures shall be discouraged· by treating multiple structures as one as per the cut-off date of year 2000. 9. Structures on the first floor or which are not properly independent separate structures shall be excluded. 10. All surveyed structures who are held non-eligible; shall be held eligible to apply for allotment of units in rental housing on a lease basis. 11. Accordingly, the Authority will prepare and identify a slum pocket eligible for auction, the same will be reflected on the government website for its auction. E- auction processes implemented in telecom, coal sector, NHAI etc have successfully dealt with many connected irregularities and issues. So, it is the right time to auction viable slum schemes. 12. The auction program must be initiated after thorough independent scrutiny of slum pocket, market conditions. 13. The eligible interested developers can submit their offers to the government auction website. 14. A specific program for all slum pockets must be made to make Mumbai slum-free in a time bound manner with a permanent mechanism for monitoring and review. 15. The eligibility of developers will be decided by the authority on grading based				does not apply to rehabilitation projects. 2. As per Section 88 of the RERA, provisions of the RERA are in addition to, and not in derogation of, the provisions of any other law for the time being in force" which means that no law will be subsumed purely for being in the same area of the RERA, that is real estate. 3. Since the scopes of the Slum Act and RERA are mutually exclusive, the RERA does not have an overriding effect over the Slum Act. 4. On proposed measure 1 to 6, in cases where the owners have failed or projects have been stalled, the SRA is considering issuance of tenders for ward – wise clusters of slum pockets for which the developer will be appointed

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				on scientific criteria through professional rating agencies including credit rating agencies after thorough scrutiny. 16. Eligibility shall include financial and non-financial but critical parameters. 17. Independent certified eligible engineers shall be given preference on some criteria in the auction of slum pockets allotment for development. 18. One developer shall be entitled to bid for one or more pockets. 19. One developer shall be entitled to apply for one or more adjoining pockets and merge them. 20. The premium received on auction shall be divided to (1) land owners whether Pvt or govt; (2) SRA; (3) Infrastructure development fund of the local authority (4) viability gap fund for non-viable plots (5) government. 21. The slum plots which are completely non-viable shall get funds from the viability gap fund. However, the slum dwellers shall be liable to make equal contributions if they wish for in-situ rehabilitation. 22. In case of totally non-viable slum plots the occupants shall not be entitled to in-situ rehabilitation. 23. In case of a plot required for critical infrastructure or purposes, the occupants shall not be entitled to in-situ rehabilitation. 24. The successful bidder will not be permitted to vacate or develop in phases. It shall be for the entire block or merged blocks at a time. 25. The successful bidder will be required to prepare and submit drawings or designs of layout, and buildings with payment for scrutiny fees. 26. All authorities who have to issue any remark/NOC/ approval/ permission etc will be connected on the same website and				through e-tendering. Please also refer to the response in Point 1(2) in Table 1. 5. On eligibility of slum structure and slum dweller, please refer to the response in point 2(3) in Table 2. 6. Declarations under Section 3C and 4 are based on scientific criteria. 7. The status of structures is verified as on the cut – off dates under the Slum Act. 8. On ground + 1 structures, please refer to the response in Point 2 of Table 1. 9. There is no policy on rental housing. 10. On proposed measures 11 to 13, in cases where the owners have failed or projects have been stalled, the SRA is considering issuance of tenders for ward – wise clusters of slum

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				they have to take action on the submission of a proposal by the successful bidder. Developers will not be required to make separate applications for approvals. 27. As soon as the layout proposal submitted by the successful bidder IS sanctioned and scrutiny fees paid, the authorities shall start scrutinizing the proposal and issue approvals where complete building plans are not required. 28. The SRA will no longer be a sanctioning authority. MCGM. will be a single sanctioning authority for building proposals. 29. MCGM will issue 1OD on payment of applicable premiums by the successful bidder. 30. On receipt of the IOD, the successful bidder shall deposit amounts towards transit rent for all slum dwellers initially for six months with SRA. This will be the first condition for granting development rights to the successful bidder. 31. If the successful bidder fails to comply with applicable terms, the auction shall be conducted freshly. 32. As soon as a demand notice for depositing the amount is issued by the MCGM to the successful bidder after scrutiny of its proposal; transit rent is issued, the agency for the pocket shall issue a vacating notice to all slum dwellers of the pocket within 15 days. Bank A/c details would have been already entered by the occupant while making public data entry. 33. Irrespective of whether eligibility is declared or not or disputed, every occupant must hand over his structure to the agency for the pocket for its demolition within 15 days of notice. Since all details would have been entered and the survey is already done, there would be no risk for the occupant to vacate his				pockets for which the developer will be appointed through e-tendering. 11. The SRA will consider framing a specific program for all slum pockets. 12. On proposed measures 15 to 17, please refer to the response in point 1(3) above. 13. On proposed measures 18 and 19 this is already allowed. 14. On proposed measures 20 and 21, the State Government will consider whether devolution of funds requires any change. The State Government cannot make in-situ rehabilitation contingent on payment as this will create two classes of persons. 15. On proposed measure 22, please refer to the response in point 4(1) in Table 4.

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				respective structure. Eligibility disputes can be decided at any time based on such data. 34. If not vacated, the agency will inform the local police who shall forcefully vacate the occupant and shift to rent housing schemes, whose rent will be paid by the Developer. A dedicated cell for this purpose shall be created by the Police Authorities. 35. Basic rights and voting rights of non-cooperative slum dwellers shall stand suspended **till** he has vacated their respective structures. 36. Non-eligible slum dwellers of an eligible structure can apply for a lease of rental housing premises whose premium will be partly paid by the Developer and partly by non-eligible slum dwellers. The lease premium shall be equal to the construction cost of such units less taxes. Govt will provide interest subsidies on home loans to such slum dwellers. 37. Eligible slum dwellers will be allotted premises in a proposed rehab building on a lease basis. Since then he shall be considered an allottee within the meaning of section-2(d) of the RERA Act. This lease will be transferable on payment of the premium. Thus, the ownership of rehab units will always remain with the Govt. 38. Demolition will be carried out by the agency appointed and will submit the report to the Authority on the Website. The same will be surveyed by Satellite/Drone and a certificate to that effect will be issued recommending issuance of CC. 39. On vacating the plot, the successful bidder shall deposit rent for the remaining redevelopment period for eligible slum dwellers. Thereupon, cc will be issued. This shall be the next condition for the				16. On proposed measure 23, these are already being implemented as vital public purpose projects. 17. On proposed measure no. 24, eviction and demolition in phases has to be allowed to allow some flexibility to the developer. 18. On proposed measures 25, 26 and 27, the same is already implemented. Additionally, all the plans are approved through an online system and are hence, available to citizens. 19. On proposed measures 28 and 29, whether the SRA grants the approvals or the BMC grants approvals, the outcome is the same. However, the SRA must have control over this function for slum schemes. 20. On proposed

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				grant of development rights to the successful bidder.				measure 30, Circular 210 is effective. 21. On proposed measures 32 and 33, eviction cannot be linked to payment of rent but has to be linked to non-compliance of clearance orders under Section 12. 22. On proposed measures 34, 36 and 37 please refer to the response in point 18(7) in Table 3. 23. On proposed measure 35, please refer to the response in point 19(4) in Table 2.

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19.	Appointment of developers	Given the problems in creation of societies, there is therefore a question as to the manner in which developers are appointed	Circular No. 80 and 148 issued under Regulation 33(7) prescribing minimum criteria for appointment of developers		One method to ensure transparency in the appointment of developers is to ensure a competitive bidding process. Once a Slum Society is formed the Society should be required to submit competitive tender and forward the same to the Authority. SRA/State Govt. can specify guidelines for eligibility of developers and the tender process. Bid should include proposed rent, timelines for project completion etc. Once a developer is selected by the society, the same can be sent to the SRA for verification and		A-17	1. The process stipulated under Circular 144D of the SRA is an efficient process. The suggested measure of the society floating tenders will further delay projects. 2. As regards the suggestion concerning formation of guidelines for floating tenders and criteria for selecting developers is being considered.

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					confirmation as is currently done.			
20.	Unfair practice adopted while appointment of Developer.	At present, the S. R Scheme starts from calling a Special General Body Meeting [In short '**SGBM**'], which is mostly Developer sponsored and chaired by their associates and in this 1st Special GBM required resolution are passed as under: *(a) agreeing to form a Society, for implementation of S. R. Scheme;* *(b) appointment of Chief Promoter and Promoter and giving authority to them to sign documents on behalf of Society,* *(c) appointment of Developer,* *(d) appointment of*	Guidelines of S.R. Scheme provides the procedure by which Developers are appointed for implementation of S.R. Schemes and their by appointment procedure mentioned therein.	(a) That the slum dwellers of the area should come together, by calling SGBM for formation of Society, for the purpose of implementation of S. R. Scheme. No Developer should be appointed in this SGBM. In case, the slum dwellers do not come forward, then SRA should identify such slum areas and give some time period [say 180 days] to form Society and apply to SRA for implementation of the S. R. Scheme and In case of failure, SRA should proceed with the Scheme, by appointing some competent Developer by following Tender process; (b) On the basis of said SGBM, the Society should write to SRA; (c) Co-operative Department of SRA should get the Society Registered immediately and in any case, prior to granting approvals for the Scheme;			T-10	Most of the concerns mentioned are addressed by Circular 144D. The meeting shall be conducted and supervised exclusively by the SRA. The participation of all slum dwellers in the meeting shall be recorded by maintaining the biometrics of the persons participating. The parameters of the scheme and the qualifications of the developer will be explained to all

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		Architect, *(e)* Then on the basis of this Resolution passed in 1st SGBM, proposals are submitted with SRA and then approvals are obtained. On the basis of this SGBM, statutory and mandatory 51% consent of slum dwellers [earlier 70% consent] are claimed before SRA. It is pertinent to note here is that thereafter, the Society remains 'Proposed Society' that means all initial approvals are granted in favour of Proposed Society, without even getting the Society Registered under Maharashtra Co-operative Societies Act [in short '**Societies Act**']. In other words, due to non - registration of the Society, provisions of Societies Act and the remedies provided therein does not apply to such Proposed Society. However, it is important to note that apart from the fact that said SGBM, is mostly sponsored by Developer and chaired by his associates. Other drawback in this process is that this SGBM is not held in the presence of any Officer of SRA,		(d) Simultaneously, SRA should call for Tender from prospective Developers [atleast 05 Developers] within a stipulated time period, by giving wide publication; (e) On the basis of Tenders received from prospective Developers, SRA shall scrutinize the same and then call for SGBM of the Society, which shall be held in presence of Authorized Officer of SRA, who should allow only genuine slum dwellers to participate, after verification; (f) In the SGBM, the Authorized Officer of SRA will explain the S. R. Scheme, including rights of the slum dwellers and put before the General Body the various Proposal received from prospective Developers and then appoint a Developer, on the basis of majority decision [i.e. 51% or more]. The entire meeting should be video recorded.				participants by the SRA. After explaining the aforesaid, a voting will be conducted under the supervision of the SRA.

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		therefore, there is no mechanism to verify participation of genuine slum dwellers in such meeting and thus, the decision making process can also easily be manipulated. Apart from the fact that, it is not an informed decision, and poor slum dwellers, mostly uneducated, put their signature under the influence of Developer and his Associates, who hold such meetings. In most of the cases, it is seen that signatures of slum dwellers are taken while entering for SGBM or by asking them to sign for attendance and then the same are shown as their consent for the S. R. Scheme. The above process is not only filled with flaws, but also results in disputes and multiplicity of litigation.						

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21.	Qualification of Developer to be appointed for S. R. Scheme:	Most of the S.R. Scheme which are stalled for years and years together, is due to Developer's financial incapability and lack of expertise to implement the S. R. Scheme. In many cases, it is also seen that the Developers are appointed in S. R. Project having no experience in redevelopment projects and after initial appointment and obtaining LOI, they have traded with the S. R. Project, by giving it to some third party Developer, thereby, substantially affecting the progress of the Scheme. It is also seen that the appointed Developer enters into financial arrangement with third parties, again compromising with the Scheme. Thus, the Scheme today is profit driven, than welfare driven. At present, in the name of checking Financial Status of the Developer, only a certificate from Developer's Chartered Accountant [C.A.], is taken by SRA, without actually verifying Developer's Financial Status. Bank Guarantee [B.G.] – There is no accountability of financial soundness and future stability. No Bank Guarantee are insisted from the Developers.	There is no specific provision either in Slum Act or rules made there under regarding qualification of developer to be appointed in S.R. Scheme.	a. Financial health of Developers and their experience: (i) In case of project involving more than 150 slum dwellers, only those Developer / Builder having minimum experience of past development or redevelopment for atleast 03 years, should be appointed; (ii) Financial health (including capital, assets, borrowings and balance sheet of last 05 years), should be verified by SRA. b. Bank Guarantee: Factors such as– (i) number of slum dwellers to be rehabilitated; (ii) size of land; (iii) cost of land; and (iv) time frame of completion of project etc, must be taken into consideration for fixing quantum of 'Bank Guarantee'. This must be made invocable by SRA, when the S. R. Project is delayed. As a safety valve, this B.G. shall safeguard the rights of slum dweller (in case transit rent and corpus fund not paid). This shall also filter-out the undeserving Developers, who enter into the Scheme for generating profit and ultimately transfers / sells the S. R. Project to other Developer for commercial exploitation. This shall, at the first place, avoid entry into S. R. Scheme to undeserving Developers / Builders or Proxy Developers. c. Developers should be prohibited to enter into any Joint Venture Agreement with third party Developer, without prior approval of Society and SRA. Any such arrangement or Joint Venture should be considered non-est and not binding on SRA and / or Society and			T-10	Please see response in Table 4.

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				shall not give any claim of whatsoever nature in the Scheme. d. No Developer against whom already 13(2) proceedings is pending before SRA or 13(2) Order passed, shall be appointed as Developer, for any other Scheme.				

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION
SUO MOTO WRIT PETITION NO. 1 OF 2024

IN RE: PERFORMANCE OF AUDIT OF THE MAHARASHTRA SLUM AREAS (IMPROVEMENT, CLEARANCE AND REDEVELOPMENT) ACT, 1971.

…Petitioner

Versus

THE STATE OF MAHARASHTRA & ORS.

…Respondents

SUGGESTIONS FOR APPORTIONMENT OF SLUM LAND BETWEEN REDEVELOPMENT AND SALE AREA

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1.	The Slum Act, and the provisions of DCPR 2034, do not provide for any formula or basis for apportionment of land between rehabilitation buildings and sale buildings. The developers enters into a slum scheme for construction of rehabilitation component in lieu whereof the developer is entitled to the development potential of the free sale component. The slum dwellers under the slum rehabilitation scheme are entitled to their respective rehabilitation tenement as prescribed from	The apportionment of land between rehabilitation buildings and sale buildings is essentially wholly dependent and based on the development planning of a particular slum. The development planning of a slum i.e., nature of construction to be carried out, FSI that may be utilized, number of buildings, height of buildings etc. Such planning is dependent on various factors such as (a) location of the land; (b) shape of the land; (c) permissible height for construction; (d) width of the road abutting the land; (e) DP reservations; (f) slum density; (g) such other physical constraints, etc (h) nature of title of land (ownership, title issues, etc). There cannot be a straight jacket formula applied to all slum schemes as each slum schemes faces various peculiar challenges. The main issue is the scarcity of land. This is usually due to rampant construction of illegal structures/encroachments which are highly dense	Regulation 33 (10)	Taking into account all the factors iterated in the previous column (which are not uniform or predictable in each slum scheme), the layout of the slum scheme is finalized by a developer. Considering these factors, the Slum Act and the DCPR 2034, permits the developer to design the layout and decide the apportionment of layout between rehabilitation buildings and sale buildings. It is submitted that having any fixed ratio or apportionment will create inflexibility and make the slum rehabilitation scheme unfeasible and unviable. The flexibility is permitted so as to enable the developer to construct the rehabilitation component and at the same time have sufficient free sale area to finance the construction of rehabilitation area. Hence, apportionment of land would not be practically feasible for effective implementation of a slum scheme. In any event, even rehabilitation building is required to be constructed in accordance with the building specifications and planning requirements laid down under the DCPR 2034, which includes providing the requisite open spaces, marginal open spaces. Furthermore,	No measures required.	-	T-7	Slum rehabilitation projects operate under multiple constraints. Every plot is differently placed as they differ on multiple points such as: 1. Tenement density 2. DP Reservation, 3. Buffer for infrastructure projects, 4. Safety zones, etc. After this, the net buildable plot size stands drastically reduced. Therefore, to come up with a blanket apportionment basis the gross plot area would be difficult. The SRA will consider if amendments to the DCPR 2034 are required to specify a minimum percentage of the net plot area (remaining after deducting all reservations and buffers, etc.) that has to be apportioned for the rehab component.

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	time to time and as well as rent till the time they are rehoused			DCPR 2034, provides for construction of amenities such as Anganwadi, health centre / outpost, community hall/ gymnasium/fitness centre, skill development centre, women entrepreneurship centre, yuva kendra/library, society office and religious structures in the manner specified in Clause 8 of Regulation 33(10) of DCPR 2034. Hence, the rehabilitation buildings are to be constructed in accordance with the DCPR 2034, and amenities as stipulated are to be provided for the rehabilitation buildings. Furthermore, any increase in land apportioned to rehabilitation buildings will also entail substantial increase in the maintenance cost of the rehabilitation buildings and land appurtenant for the slum dwellers. It may be noted that there are other similar developments which involve sharing of built up-area such as development of lands owned by MHADA under Regulation 33(5) of DCPR 2034, or land owned by co-operative societies, which are being implemented on a large scale in Mumbai. In aforesaid developments as well, there is no stipulation of apportionment of land area between MHADA/MHADA's tenant buildings and sale buildings.				

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2.	Slum rehabilitation schemes have become slum replacement schemes or slum relocation schemes – moving people from horizontal into vertical slums.	**Rehabilitation densities:** density norms in any city are based on *maximum* limits. SRA projects prescribe *minimum* densities – and almost all slum rehabilitation projects have two to three times the densities of other residential layouts and sometimes more than twice the residential densities of slums. Furthermore, it is almost routine for the CEO of SRA to allow "relaxations" over and above these compromised standards to make projects "viable" for developers. Such a practice of condonation is harmful for two reasons: (1) it reduces the overall well-being of citizens by reducing the quantum and quality of public goods in the locality; (2) it creates opportunities for rent-seeking by creating a regime of exemptions.	DCR 33(10) of the Development Control and Promotion Regulations (DCPR)	All redevelopment sites whether in-situ rehabilitation or resettlement must conform to the National Building Code (NBC) 2016 (Part 3, section C-2.4.2) specification of a *maximum* 500 dwelling units per net hectare (that is, plot areas for buildings, excluding area of land used for amenities). These norms must be universally applied, and not a scheme-by-scheme basis.	Amendment to the DCR 33(10) of the Development Control and Promotion Regulations (DCPR).		T-6	In slum areas, the tenement density is very high. In some cases, it is nearly 850 tenements/ hectare. The Slum Act requires all eligible slum dwellers to be rehabilitated in situ as per DCPR 33 (10), Reg. 3.12A. Specifying maximum density will require some slum dwellers to be rehabilitated on another plot. This will lead to creation of two categories of slum dwellers that are otherwise, same before the eyes of law. Additionally, it will pose several practical hurdles for the SRA to categorize slum dwellers. The SRA will consider formulating a policy to curb vertical slum - like conditions.

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3.	Creation of vertical slums through SRA scheme: The adverse consequences on health and well-being of residents living in overcrowded rehabilitation buildings deprived of light and ventilation has been well documented in technical studies.	Distance between buildings: The by-laws allow the distance between adjacent buildings of 32 meters height to be as little as 6 meters (the NBC-2016 prescribes a minimum of 10 meters around the building or 20 meters between adjacent buildings).	DCR 33(10) of the Development Control and Promotion Regulations (DCPR)	The airspace between buildings is crucial to ensure adequate light and ventilation particularly on the lower floors of buildings. There should be no departure from Mumbai's earlier norm of the gap-between-buildings to height-of-buildings ratio of 1:2, which is already less than required by NBC-2016. This norm must be adopted for all redevelopment projects – and there should be no exceptions made on account of planning constraints or project viability.	Amendment to the DCR 33(10) of the Development Control and Promotion Regulations (DCPR).		T-6	1. The SRA will consider appointing a neutral and independent expert with required technical expertise for every scheme to ensure that rehab tenements are reasonably habitable and the plot has all amenities as per the DCPR 2034. 2. As regards changing the distance between the buildings, the same will require an amendment to the DCPR - 2034. The SRA will consider appointing a neutral and independent expert with required technical expertise to see if the DCPR 2034 requires amendments.
4.	Inadequate and discriminatory provision of open spaces and amenities	**Open spaces and amenities:** Provision of open spaces and recreation grounds in slum rehabilitation schemes are seen as a cause of hardships on developers rather than the rights of citizens. The DCPRs demand open space provision of 15 to 25 percent depending on plot area, but in many SRA projects open space requirements are compromised and condoned by the SRA on the grounds of planning constraints. In fact, the Section 6 of Regulation 33(10) allows open spaces to be reduced up to just 8% of site area in case the relaxation is required "to make the	DCR 33(10) of the Development Control and Promotion Regulations (DCPR)	Neighborhood and residential open spaces and amenities must be specified on a per-capita basis rather than as a percentage of land area or built-up area. The NBC 2016 (Part 3, section 5.5) specifies a 1 neighborhood play area of 1.5 Ha for 15,000 people and 1 residential unit play area of 0.5 Ha for 5,000 people. This comes to minimum 2.7 Ha of open space for 3,000 households or *2 sqm of open space per person.* Other amenities such as dispensaries, pre-primary schools, primary schools, secondary schools, community rooms, etc should be based on the NBC 2016. The rehabilitation authority must ensure that adequate norms as established for open spaces and amenities are not compromised at any cost, and there should be no	amendment to the DCR 33(10) of the Development Control and Promotion Regulations (DCPR).		T-6	1. After carving out unbuildable reservations such as roads, drains/ *nullahs*, public open spaces from the slum plot, the available buildable area is considerably reduced. To overcome this, the SRA will apply to the State Government seeking appropriate change of reservation so as to enable interchanging of open spaces/ amenities between multiple slum pockets at a single location or undertaking cluster development in the same/ adjoining ward so as to have better utilization of amenities. 2. Additionally, the SRA will apply to the State Government

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		project viable." The practice of affixing open space provision *as a percentage of site area* is a serious problem. Open space and amenity norms *should be based on a per capita basis* as specified in the National Building Code of India (NBC-2016).		exceptions made on account of planning constraints or project viability				to allow floating FSI (indexed) so that the schemes which are unviable due to requirement of open spaces can utilize their FSI in the same/ adjoining ward. 3. The SRA will consider appointing a neutral and independent expert with required technical expertise for every scheme to ensure that scheme parameters are remain beneficial and the plot has all amenities as per the DCPR 2034.
5.	Apportionment of land area for rehabilitation schemes creates slum like conditions and income-based residential segregation	In all redevelopment projects, sale and rehabilitation areas are separated by the developer. Amenities and open spaces are also separated between sale and rehabilitation buildings. Sale buildings are on average 1/4th the density of rehab buildings. The sale units are unaffordable for a large majority of the citizens.		Sale units should be part of the overall project layout, even part of the same buildings (and not separate components) all the amenities in the layout (open spaces, health, education, etc) should be shared between rehab and sale occupants, and the sale units should be capped in terms of area (max 50 sqm) to create additional affordable housing stock for the city.	Amendment to the DCR 33(10) of the Development Control and Promotion Regulations (DCPR).		T-6	Rehabilitation of slum dwellers is the prime responsibility of the SRA. Even if the SRA were to mandate these requirements for developers, slum rehabilitation schemes would get stalled.

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6.	Apportionment of land is uneven, resulting for less open space and crowded structure resulting in vertical slums	Government / public after development goes in the hands of the private Developer and Government which is the owner of the land losses its land.	Provisions of DCPR 2034	Provision of the DCPR 2034 can be overlooked and amended. In SRA project, the Construction through contractor can be done by way of e-tendering process. Apportionment of the slum land between redevelopment area and sale area should be in 50:50 ratio. Disciplinary action should be initiated against the officer not following the law.	Yes DCPR - 2034 requires a major amendment	Charging premium in lieu of condonation for open space should be abolished. Authority should be held responsible	T-1	1. On apportionment of land, please refer to the response to point 1(1) above. 2. On e-tendering of slum rehabilitation projects, the SRA has addressed a letter to the State Government seeking approval for auctioning slum schemes on government lands which are stalled. 3. On disciplinary action against errant officers, please refer to the response in point 5(6) in Table 1.
7.	Congestion and inhuman conditions in Rehab Buildings.	Slum Act and/ or DC Regulation is silent on equal distribution of plot for Rehab Component and Sale Component. Therefore, the Developer uses major / larger portion of the land, for his Sale Component. Despite being a public welfare legislation the unequal distribution of Plots amongst the Rehab and Sale Building is a serious concern, thereby defeating the purpose of the enactment, apart from being the main reason for congestion in Rehab Building.		*Equal distribution of Plot for Rehab and Sale Competent*: Pre-demarcation and determination of S. R. Project into equal proportion between Rehab and Sale Plot size [i.e. 50% – 50%]. Even in case of merger / amalgamation with adjacent / another S.R. project, the equal (50% – 50%) distribution of proportion of land amongst Rehab Building and Sale Building shall remain unchanged. Depiction and display of such pre-demarcated / determined plan of 'land and building' under S.R. project showing distribution of land for Rehab and Sale component in equal proportion, near the site of dimension 10' x 15' banner.			T-9	1. On congestion in rehab buildings, please refer to the response to point 2 above. 2. On apportionment of land, please refer to the response to point 1(1) above. 3. The sanctioned plans are already published on the SRA's website.

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8.	High Density and lack of acceptable housing conditions in the rehab tenements	The provision of social amenities is an essential component, too often neglected, in planning redevelopment sites. In particular, it is vital to incorporate schools with playgrounds within the development, as well as pocket parks, and basic health care clinics. Acceptable housing comprises all these essential amenities within walking distance. It is not just four walls and a roof.	NBC 2016 (Part 3, Section C-2.4.2) specifies 500 dwellings per units per hectare as the maximum density on a plot from 15 sqm apartments in four storey walk ups. Part 3, Section 5 of NBC 2016 separately specifies social amenities to be provided given the size of population. Part 3, Section 8 of NBC 2018 has clear guidelines concerning adequate natural light and ventilation / space between buildings for facades that have windows.	Land apportioned under the scheme for sale component should be used instead to provide rehab buildings with proper light and ventilation, plus all social amenities such as schools with playground, pocket parks, healthcare clinics etc. Where possible, city wide amenities must be provided. In planning redevelopment therefore, the essential amenities to be provided on site must first be defined for the size of population to be rehabilitated on that site. On no account should the provision of adequate amenities be compromised. Doing this only degrades the development. As the size of apartment to be provided in resettlement increases it may be impossible to meet all the conditions spelt out above in regard to adequate social amenities, density and light and ventilation. In that case the only option, and one that should not be ruled out, is to relocate some families on adjacent vacant land or in neighbouring redevelopment sites which are less overcrowded.		Government should not monetise the value of the land. Where the owner of the land is government, land ownership be transferred to Community Land Reserve ("CLR"). CLRs will be required to keep their land exclusively for low income housing. CLRs will not be permitted to sell the land. CLR should be instituted as a non-profit companies under section 8 of the Companies Act, 2013. The hallmark should be achieving the utmost transparency.	A-8	1. All the amenities such as balwadis, health centre, skill development centre, fitness centre, yuva kendra, etc. are provided in every slum scheme in addition to the existing reservations. Wherever, DP demands a reservation of school, etc., the SRA is providing the same. It is impossible and unnecessary to provide a school with a playground for every scheme. 2. Moving some eligible slum dwellers to another plot would lead to creation of two categories of slum dwellers who are otherwise similarly placed before the law. Such categorization will lead to several issues at the time of implementation.

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9.	Apportionment of the slum land between the redevelopment area and the sale area	RERA Act, 2016 has been enacted to bring standardisation, accountability, professionalism, and transparency in the real estate sector. It is a complete code. Still, multiple regulators regulate the real estate sector including SRA for slum schemes. A large no. of projects got stalled. This is causing great injustice and losses to the ultimate stakeholders for no fault on their part and frustrating/defeating the objectives of RERA.	Section-88 makes the RERA Act overriding effect over all prior laws. RERA Act already has effective provisions u/s 6 for an extension if the project remains incomplete after the expiry of the validity of the registration, revocation of registration u/s 7, completion of an incomplete project whose registration is lapsed or revoked u/s 8.	1. As soon as CC is issued, the developer shall register the project with MahaRERA as per provisions u/s 3&5 of the RERA Act. This will override the auction certificate issued by the SRA. 2. The agency for the pocket on behalf of slum society will be added as a co-promoter for representing slum dwellers on the MahaRERA Website. 3. The project will be further monitored or regulated as per provisions under the RERA Act through MahaRERA. 4. The apportionment of the land of the slum pocket will be based on FSI Consumption between the rehab area and the sale plot area as per provisions u/s 17 of the RERA Act by MahaRERA.			A-11	Please refer to the response in Point 18(1) in Table 3 above.

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10.	No long-term planning for ensuring the livability of slum rehabilitation accommodation	No thought and planning has gone into the long-term viability and maintenance of slum rehabilitation areas. This includes both the rehab buildings as well as the general area in which they are located		A portion of the project's commercial benefits shall be mandatorily allocated to a fund for long-term maintenance and improvement of rehabilitated areas. Planning norms to ensure adequate open spaces in such areas. Slum dwellers shall be provided with financial literacy training and given options for monetizing their benefits, should they choose not to occupy the rehabilitated property			A-17	The current norms of the SRA ensure rehabilitation and adequate maintenance of rehabilitation buildings.
11.	Poor living conditions, high density, no proper amenities, adverse health and environmental conditions, lack of privacy exposing women to increased abuse, poor maintenance, no fire safety etc.	Statutory framework under the Slum Act and the DCPR, 2034 enables the unscientific and inequitable apportionment of the slum land between the rehab area and the free sale area. The slum dwellers have been, and are, rehabilitated in 1/4th to 1/3rd of the land area they occupied, thereby increasing congestion three-fold. Currently there is no cap on maximum density. Instead, there is a minimum density for rehab. Rehab buildings are segregated on 25-30% of the total slum land. The density of their buildings has serious human and environmental consequences.	**Slum Act** Section 15A (3) and (4) Section 3A Section 8 **DCPR, 2034** The DCPR, 2034 contains a plethora of regulations which ensure that when buildings are constructed, they provide the necessary natural light, air and ventilation to their occupants.	Apportionment of slum land between rehab and free sale area should be done on scientific basis. DCPR, 2034 provides for maximum tenement density norms in Regulation No.30 for non-slum rehabilitation projects. Regulation 30 prescribes a maximum tenement density of 450 per hectare where the FSI is 1 Maximum density of 600 t/ha should be fixed for rehab. This would be consistent with maximum density of 450 t/ha specified under DCPR 2034. Inadequate amenities are provided as per the current SRA policy—area equivalent to one tenement area for balwadi, society office & community centre, each against 100 rehab tenements, and proportionately more for higher numbers of tenements. There	Partly	State and the SRA as the planning authority, should initiate changes to the statutory regime which would ensure a larger apportionment of land to the rehab components and which would lead to a more rational construction of rehabilitation buildings.	A-27A	1. On prescribing maximum density, please refer to the response in point 2 above. 2. On apportionment of land between the rehab and sale component, please refer to the response in point 1 above. 3. On provision of amenities, please refer to the response in point 8(1) above. 4. In slum schemes, convenience shops are allowed on internal roads. Additionally, commercial tenements are also accommodated. 5. The BMC maintains a TDR bank. These documents are

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			There are so many regulations which ensure this by prescribing open spaces, height restrictions and distance between two buildings. Sub regulations 3.14 to 3.16 of Regulation 33(10) Sub regulations 3.12 (A) of Regulation 33(10) Sub regulations 2.1 to 2.9 of Regulation 33(10) Sub regulations 6.15 to 6.17 of Regulation 33(10) Regulation No. 30 Regulations 36 to 46	is no mandatory provision for shops, markets, health care, education, recreation etc., even for large rehab projects. The standards specified in in DCPR 2034 and town planning schemes based on development area and population for development, to be implemented in slum redevelopment projects. Slum TDR sale and purchase to be restricted for use in other slum redevelopment projects to maintain a uniform density across various slum pockets that currently are unequal. SRA can also operate a Slum TDR bank for ease of TDR encashment and sale and regulate its pricing. SRA has been issuing circulars time-and -again providing multiple concessions to the required provisions of FSI entitlement, open spaces, distances between buildings, building heights, fire regulations, light and ventilation etc. The practice of concessions and premiums, granted under discretionary power of CEO of SRA be totally stopped.				available in the public domain. If the slum TDR from one slum scheme is allowed to be utilised in another slum scheme, the density in the other scheme will increase while the FSI on the said plot remains the same. Eventually, the slum TDR will remain unutilised. Therefore, the suggested mechanism is faulty. 6. On discretionary powers of the CEO to relax norms, please refer to the response in point 10(2) in Table 3.

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12.	Congestion and inhuman conditions in Rehab Buildings.	Slum Act and/ or DC Regulation is silent on equal distribution of plot for Rehab Component and Sale Component. Therefore, the Developer uses major / larger portion of the land, for his Sale Component. Despite being a public welfare legislation the unequal distribution of Plots amongst the Rehab and Sale Building is a serious concern, thereby defeating the purpose of the enactment, apart from being the main reason for congestion in Rehab Building.	No provision for apportionment of land amongst Slum Dwellers Rehab Building and Sale Building.	*Equal distribution of Plot for Rehab and Sale Competent*: a. Pre-demarcation and determination of S. R. Project into equal proportion between Rehab and Sale Plot size [i.e. 50% – 50%]. Even in case of merger / amalgamation with adjacent / another S.R. project, the equal (50% – 50%) distribution of proportion of land amongst Rehab Building and Sale Building shall remain unchanged. b. Depiction and display of such pre-demarcated / determined plan of 'land and building' under S.R. project showing distribution of land for Rehab and Sale component in equal proportion, near the site of dimension 10' x 15' banner.			T-10	1. On apportionment of land between the rehab component and free sale component, please refer to the response in point 1 above. 2. On display of demarcated area, please refer to the response in point 7(3) above.

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION
SUO MOTO WRIT PETITION NO. 1 OF 2024

IN RE: PERFORMANCE OF AUDIT OF THE MAHARASHTRA SLUM AREAS (IMPROVEMENT, CLEARANCE AND REDEVELOPMENT) ACT, 1971.

…Petitioner

Versus

THE STATE OF MAHARASHTRA & ORS.

…Respondents

SUGGESTIONS REGARDING OBLIGATION TO PROVIDE TRANSIT ACCOMODATION TO THE SLUM DWELLERS PENDING REDEVELOPMENT

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Sr. No.	Specific Issue / problem identified	Cause of the problem	Relevant existing Statutory Section(s), Regulation(s), Rule(s), Circular(s), Guideline(s) and / or Judgment(s)	Proposed Measure / Solution	Whether Proposed Measure / Solution requires amendment of law by Legislature	Proposal for Legislative Reforms	Reference	Views and Suggestions of the SRA
1.	Transit Accommodation for all occupants	During the pendency of eligibility cases, the developer is required to accommodate the occupants in transit tenements. However, even when the eligibility of the occupant is decided, and such occupants are declared to be ineligible, such occupants refuse to vacate the transit tenements which leads to financial burden on the developer for payment of rent for such ineligible occupants.	Regulation 33(10) VIII (4) of DCPR 2034 Section 33 and 38	The SRA ought to adopt an immediate/summary eviction procedure for eviction of such occupants from the transit tenements within a period of 15 days from the date of the declaration of ineligibility.	Yes. Proposed Measure/Solution requires amendment of law by Legislature. Regulation 33(10) VIII (4) of DCPR 2034 Section 33 and 38	Section 33 and 38 should include summary eviction of ineligible occupants from transit tenements (under Regulation 33(10) VIII (4) of DCPR 2034) within a period of 15 days from the date of the Order passed by the Competent Authority.	T-7	After the eligibility is decided, there is an appeal available to the persons found ineligible. During the period available for the appeal, such people cannot be evicted. Thereafter, process of eviction is initiated but is subject to any interim orders by the Appellate authority. Considering this, the SRA takes a deposit of 1 year's rent even for ineligible slum dwellers and they can be removed on the payment of the rent.
2.	Shortage of transit camps	Severe shortage of transit camps are being faced which prevents from developers from shifting slum dwellers to alternative accommodation.	Regulation 33(10)	There ought to be construction of permanent transit camps on developable lands across Mumbai. This is already contemplated under the draft housing policy 2024.	No. Regulation 33(10)	--	T-7	There is no mandate to provide temporary transit accommodation and there is always the alternative of payment of rent. The Government had pursuant to orders of this Hon'ble Court in Writ Petition (L) No. 8973 of 2023 formed a committee headed by the former Chief Justice of the Allahabad HC to suggest measures for creation of sufficient PAPs. The committee submitted a report and, on the basis, thereof, the Government came out with Government Resolution No: Yachika – 2023/Pro.No.220(Part – 1)/ Slum – 2 dated 19th August 2024 which sets out the policy for generation and allotment of PAPs.
3.	Developers failing to pay transit rent to eligible slum dwellers or issuing dishonored cheques.	Weak / No Regulation by SRA to ensure that the Developers fulfill the terms of the agreement.	33 (10) VIII 4.2, DCPR, 2034 Circular No. 210 dated 01.08.2023	SRA should take cognizance of the collusion b/w its officers and the Developers and take action regarding the same thereby ensuring effective			T-6	The SRA has implemented Circular 210, which mandates deposit of 2 years rent in advance and further 1 year rent in the form of PDCs. This mechanism ensures that there are no defaults in rents. In the event there is non – payment of rents, no permissions are issued in favour of the developer in any project till the default is remedied.

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			Circular No. 210-A dated 23.02.2024	implementation of the existing regulations that mandate the Developer to provide t ransit rent/accommodation during the project.				The SRA has proposed a legislative amendment to the State Government which would allow it to issue a recovery certificate for dues of transit rent and recovery of such transit rent by way of attachment and sale of the developer's property.
4.	Developers do not invest in transit camps but occupants are paid mutual agreed upon rent, and ultimately this payment of rent amount is also stopped by the Developers.	The developers are given the option to either provide transit accommodation, or to provide rent. This gives them an opportunity to flout the obligation, by restricting the rent payment only in the initial months.	Circular No. 210 dated 23.02.2024 stating that advance rent of two years must be provided	Transit accommodation must be provided, and the same should be included in the individual agreements. Transit accommodation should be in buildings / flats / rooms owned by the Developer with clear undertaking that the Developer shall not create any third-party rights over these premises till permanent accommodation is provided to the slum dwellers. If at all rent is to be paid, it must clear terms regarding the payment must be recorded in the agreement itself. Advance rent of two years must be deposited by the developers in the escrow account, as provided under. (Circular No. 210 dated 01.08.2023.) The rent must increase every year by 10%.			T-6	Please see response to items 2 and 3.
5.	Inhumane li ving conditions in transit accommodations provided to the slum dwellers	Weak/ No Regulation by the Statutory Autho rities (MMRDA in this case) to ensure that the appointed Developer fulfils the terms of the agreement.	33(10) VIII 4, DCPR, 2034 33(10) VIII 8, DCPR, 2034 33(10) VIII	Families spend anywhere between 3-4 years in transit accommodations. Therefore, permanent and temporary transit settlements must conform to open space and amenity norms as			T-6	1. Permanent transit camps, apart from nomenclature, are identical to rehab projects. 2. On the financial capacity of developers, the SRA will frame guidelines in this regard. 3. In schemes where complaints were received for quality of building, scarcity of water etc., the SRA has directed the developer to carry out major repairs. Apart from the

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		No proper verification of the financial capacity of the appointed Developer to execute the project. No legal mechanism in place for the slum dwellers/ PAPs to raise this issue before a competent authority	9, DCPR, 2034 Circular d ated 15.12.2003 Circular d ated 10.11.2009 Circular No. 108 dated 05.01.2010	per NBC for income housing.				above, regular repairs are carried out by the developer at the behest of the slum dwellers. Additionally, the SRA, through the developer obtains a structural stability certificate in respect of the temporary transit camp. The SRA has also extended the option of shifting to available permanent transit camps in Malad. However, the slum dwellers have not exercised this option. Complaints of slum dwellers with respect to transit tenements are sufficiently heard by the SRA in forums such as the Janta Darbar that are functioning twice every week. The SRA is considering framing the minimum requirement policy setting down the standards to be maintained in transit accommodations and such conditions can be made the conditions of the LOI the breach of which may lead to an action of the Developer.
7.	Transits accommodation and rent issue	Timely rent not paid by the developer to the slum Dwellers. Eligibility withheld or prolonged with official so as to refrain from payment of the rent to slum dweller	Various guidelines by Hon'ble supreme court Also Circular no. 153, 166, 146	Escrow Account 2 years advance rent. Auto Disbursal of rent to the slum dwellers by the SRA. Interest on arrears of rent to be charged on Developer. After passing order of stop work, if the rent is not paid then he be declared as Black listed and no further work be given to him. Increment 10% each year on rent. Amount of Rent could be decided on the basis of Ready Reckoner rate rather than leaving it to be decided by the handful members of the Society and Developer. Clear procedure described in Circular no. 153 of SRA be followed which will reduced	Law already exist but the implementation is not done proper by the authority. Provision for penalty/ disciplinary action should be inserted in existing law. Inculcation Guidelines by Hon'able Bom bay high Court for arrears of rent. Application for arrears of rent has to be decided by committee and not by the Assistant Registrar	Authority should be held responsible for non-action on the developer not paying rent.	T-1	1. As regards suggestions on rent, Circular 210 now governs the field. 2. On blacklisting of developers, please refer to the response in points 7(5) and 7(6) of Table 3. 3. Covid and other similar conditions resulted in default on transit rent. SRA, after receiving numerous complaints and grievances, formulated various measures. These included deposit of advance rent of 2 years and post dated cheques for the 3rd year with SRA before giving any permissions. SRA distributes the rent to slum dwellers directly into their bank accounts. As per circular 210, if a developer defaults in payment of transit rent, they are ineligible to submit new proposals until the outstanding rent is paid. 4. As per circular 153, the SRA already stipulates 5% increment each year in rent. But 10% will be considered by SRA. 5. As of now, developer and slum dweller mutually decide on the amount of rent. Since it is a private contract between both the parties, it is proper for them to decide the rent. Although, base rate certain can be declared by SRA. SRA will consider the proposal. 6. SRA does follow the procedure for recovery of rent. This procedure is not always successful for recovery of unpaid transit rent. So SRA has proposed to the State Government for an amendment to the Slum Act for the recovery of rent. A proposal has also been sent to the State

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				number of cases filed in Hon'ble Bombay High Court. Independent Committee has to be formed for deciding the applications for the arrears of rent, rather than leaving it on Assistant Registrar of Co- operative society, which have failed to perform his duty resulted in number of cases pending in Hon'ble Bombay High Court. Stop Work notice issued for non-payment of rent should not be withdraw without intimating to the Complainant and opportunity of hearing be given to him/her. Once the IOA, lay out and Draft plan of the scheme is approved the allotment by the way of lottery should be done irrespective of the eligibility of the slum dwellers. If the slum dweller fails to prove his eligibility before the CC his allotment should be converted into PAP, which will bound the authority to decide the application within specified time limit. Disciplinary action should be initiated against the officer not following the law.				Government to permit issuance of a recovery certificate against the defaulting developers and attachment of personal properties of developers pursuant to execution of such certificate Additionally, the SRA has also proposed sale of such attached properties. Currently, to check different schemes where non-payment of transit rent is alleged, the SRA has started appointing panel auditors of co-operative housing societies for determination of default in rent amount. Additionally, in respect of schemes where building permissions have been granted, compliance with Circular 210 will be monitored and the SRA will direct the developer to deposit further rent if the scheme is not completed in 3 years. The SRA will ensure that complaints with respect to transit rent are reduced. As such, the current staff is sufficient for that purpose. 7. The SRA has developed a rent Management System – Software so that rent related issues can be apply and resolved easily. 8. The SRA is considering developing a system wherein the developer will be mandated to report the status of rents paid / collected by each developer every month. The consequences of failure to do so are also being considered. 9. Allotment of tenement will be done to the eligible slum dwellers by way of lottery as per the provisions of the DCPR. Although the provision of tenement is done for all dwellers, whether eligible or ineligible, allotment of tenement without considering eligibility will be improper. 10. On disciplinary action against errant officers, please refer to the response in point 5(5) in Table 1. 11. Once an application for eligibility is made before the Competent Authority under the GRs dated 2015 and 2018, the Competent Authority decides on eligibility within 3 months if all requisite documents are duly submitted. Allotment cannot be completed before deciding eligibility. It is also impossible to complete the allotment procedure before CC. Currently, annexure-II is not finalized as the slum dwellers do not approach the Competent Authority. The SRA will consider requiring a slum dweller to approach the Competent Authority within 3 years of finalization of Annexure-II. In case, a person is declared ineligible, they can prefer an appeal before the Appellate Authority under Section 35.

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8.	Fixation of Transit Rent, by Developer.	There is no mechanism under the Scheme, to fix reasonable transit rent and the same is left to the Developer, this leads to dispute between the Developers and the slum dwellers. That a mechanism should be devised for uniformity of payment of rent to all the slum dwellers as large number of slum dwellers are aggrieved by quantum of transit rent and have been running from pillar to post for transit rent before SRA. This Hon'ble Court is burdended with a lot of litigation due to non-payment of transit rent. Minimum Transit Rent, considering location and other factors, should be, decided by SRA and, not left to the Developer. Developers arbitrarily decide nominal / meagre transit rent amount, by managing the Committee Members of the Society, which then becomes binding on all the members.		Fixation of minimum transit rent should be by SRA considering the location and other factors in consultation with stakeholders – minimum 5% year wise increase should be implemented strictly. In this regard, a condition should be recorded in LOI itself. Registered Tri-partite Agreement between Developer, Society and Slum-Dwellers should be executed at the time of appointment of Developer, wherein, transit rent amount payable to slum dwellers should be mentioned [Stamp duty should be exempted].			T-9	1. On fixing transit rent, please refer to the response in 7(4) above. 2. On a tripartite agreement, once the legislation provides for a minimum rent, a tripartite agreement will not be useful 3. On fixing minimum rent, please refer to the response in 7(4) above. 4. If the slum dwellers and developer wish to register the agreement, that may be allowed. 5. SRA will send a proposal for the exemption of stamp duty to the State Government.
9.	Advance Rent to be paid by the Developer.	Though Circular No. 210 and 210A mandates payment of 24 months advance rent + 12 months thereafter post dated cheque, however, despite this, it is seen that the Developer are defaulting, due to ineffective	Circular No. 210 and 210 A of SRA.	Circular No. 210 and 210 A of SRA, should be implemented strictly and incase of default, proceedings for cancellation of Developer [u/sec. 13(2) of Slum Act], should be initiated *suo-moto* by SRA.			T-9	Currently, Circular 210 is applicable for all new schemes. The advance rent is to be paid at the time of Annexure III. LOI is only issued by the SRA after advance rent is deposited. For ongoing schemes, the advance rent provision is made applicable when the developer submits an application for new approvals. Effectively, the SRA can take action against the developer if rent is pending. The SRA will consider if any improvements can be made to this framework and assess if proceedings under Section 13(2) can be resorted to.

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		implementation of these Circulars.						
10.	Default in payment of rent.	No effective consequences incase of default in payment of rent.		In case of default in payment of Rent or any act or omission contrary to the S. R. Scheme, then proceedings for cancellation of Developer [u/sec. 13(2) of Slum Act], should be initiated *suo-moto* by SRA.			T-9	Please refer to the response in point 9 above.
11.	Only 02 (two) Asst. Registrar of Co-op. Societies [In short '**ARS**'] to decide issue of transit rent of slum dwellers.	At present there are only 02 (two) Asst. Registrar of Co- op. Societies [In short '**ARS**'] to decide transit rent of slum dwellers, who are burdened with many functions.		At least 04 (four) Officers of SRA, should be appointed by SRA, exclusively dedicated, for deciding rent and lottery related issues for speedy disposal of grievances of Slum Dwellers, Society and Developer. Any complaint/ grievance of rent should be decided on priority and In case of default, found on part of Developer, it should immediately followed with 'Stop Work Notice', and on further default with 13(2) proceedings.			T-9	Considering initiatives by SRA which includes existing measures under Circular 210 and proposed measures with respect to recovery certificate and attachment, SRA may not require extra officers. The SRA, as stated above is considering bringing about a system where the developer will have to update the deposit of rents monthly. This database will ensure that the exact status of payment of rents to the slum dwellers is readily available. The process for submitting rent related complaints has now been changed. All complaints in respect of non-payment of rent can now be filed online on the portal of the SRA. On the complaint being uploaded, the SRA is mandated to initiate action against these complaints in 15 days wherein the developer is asked to pay the rent to the slum dweller.
12.	Delay in payment of transit rent	The Slum dwellers only remedy is to approach the Nodal officer of the SRA to claim the default transit rent. The said Nodal Officers take hearings for a period of more than 2 years and the Slum dweller has to pay the rent from his pocket for the said default period, sometimes by taking loans on heavy interest		The slum dwellers should be provided with the default transit rent along with the same amount of rent towards compensation / penalty and on failure of the developer to pay such amount, then the SRA Authority should pay the same from the amount of premium deposited by the developer and in the event of appointment of			A-10	The process for submitting rent related complaints has now been changed. All complaints in respect of non-payment of rent can now be filed online. The SRA is mandated to initiate action against these complaints in 15 days wherein the developer is asked to pay the rent to the slum dweller. In case he fails to do so in a one – month time period, either a stop work notice in respect of sale portion is issued against him and if the failure continues action is taken under S. 13(2) of the Slum Act. The hearing by nodal officers has now been discontinued.

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		rates or if he cannot afford to pay the rent along with the family expenses is being forced to sell the structure at a very low price and thereby the whole family of the Slum dweller is ruined. There is no provision for paym ent of compensation / penalty by the developer for the said delayed period.		new developer the same should be recovered from the new developer. Further, there should be time bound hearing for the default transit rent proceeding.				
13.	Developers failing to pay transit rent and allotting premises without OC in order to save on rent	The developers in connivance with the SRA Officers with the intent to escape from the liability of payment of the transit rent, makes the allotment of permanent Tr ansit accommodation without O.C. and the Slum Dwellers are being forced and black mailed to sign the undertaking that they have received the default transit rent and there is no rent pending with the developer, else, the developer never gives the allotment to the Slum Dweller.		No allotment should be allowed without the O.C and payment of the transit rent. Further, the developer should not be allowed to sell or create third party rights of the 50% of the sale component till O.C. to rehab component is issued and the transit rent is cleared by the developer			A-10	The SRA has formulated a policy which requires the developer to handover rehab tenements to the SRA. SRA does not accept any premises without the OC. The SRA then hands over possession of such tenements to eligible slum dwellers. The SRA will fine tune this process to make improvements.
14.	Obligation to provide transit accommodation for the slum dwellers	The entire process for Slum Rehabilitation Schemes is developer-centric, electoral politics-oriented instead of policy-centric and objective of making Mumbai a slum- free city. Contradictory and personal interests of slum dwellers, the Managing Committees, persons with vested interests, local	RERA Act	1. The developer will pay transit rent in two instalments – (a) On receipt of the IOD, the successful bidder shall deposit amounts towards transit rent for all slum dwellers initially for six months with SRA; and (b) On vacating the plot, the successful bidder shall deposit rent for the remaining redevelopment period			A-11	1. New initiatives of SRA such as Circular 210 are more beneficial to slum dwellers since it ensures advance rent payment even before the LOI stage. An IOD is issued after the LOI stage. 2. The RERA does not apply to the rehab portion and SRA. SRA is not only a planning authority for slum rehabilitation. They are a regulatory authority for slum dwellers and for the rehabilitation portion. If the real estate authority under RERA also starts looking into grievances of slum dwellers, it will lead to dual regulatory control over schemes which is not proper.

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		politicians, developers, conflicting laws and procedures and frequent changes in policies/procedures/officials, give rise to many complications that do not allow smooth complete and timely implementation. This tempts officials involved to misuse their discretion. Huge workload, pressure to recover the huge premium paid for getting posts in uncertain tenure, vague laws, conflicting judgments, dictation of political bosses, etc. have made officials insensitive leading to rampant corruption. Since every stakeholder exploits maximum monetary gains, all prefer to conveniently remain silent. There is hardly any policy or even a judgment that speaks about the real stakeholders who ultimately take burden of the rehabilitating the encroachers viz. either the flat buyers by purchasing at unreasonably high prices or the private redevelopment projects where it is compulsory to purchase TDR generated from such slum schemes. These stakeholders spent their golden years of life paying EMI for housing loans and/or paying taxes.		for eligible slum dwellers. 2. Subsequent disputes will be adjudicated by MahaRERA by considering the eligible slum dweller as an allottee as described u/s 2(d) of the RERA Act. Changes in the RERA Act to that extent shall be made. 3. Rent is already considered as compensation u/s 12 & 18(3) of the RERA Act. Hence no need t.o make any further changes.				

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		RERA Act, 2016 has been enacted to bring standardisation, accountability, professionalism, and transparency in the real estate sector. It is a complete code. Still, multiple regulators regulate the real estate sector including SRA for slum schemes. A large no. of projects got stalled. This is causing great injustice and losses to the ultimate stakeholders for no fault on their part and frustrating/defeating the objectives of RERA.						
15.	Rent/interim compensation/transit accommodation	This is one of the areas most in need of reform and is also the source of a large amount of litigation where slum-dwellers approach the High Court for payment of rent. The Slum Act and DCR 33(10) do not contemplate payment of rent but provide for transit accommodation, but in most cases rent is paid in lieu of alternate accommodation. Even where alternate accommodation is provided, the same is taken from private landlords. In many cases the develoeprs enter into differential agreements with slum dwellers to get their consent. The SRA and AGRC have refused to fix rent and it is only after intervention	Section 13(2) And DCPR 33(10)	DCR 2034 should be amended to take into account payment of rent in lieu of transit accommodation. If this is done powers can be devolved upon the SRA or the State Govt. to ensure adequate oversight of the same. Additionally uni form guidelines should be issued by the State Govt./SRA fixing minimum transit rent to be paid area wise for SRA schemes. Societies and developers are free to agree to a higher amount, but a base rate ought to be set by the State Govt./SRA. SRA/Stat Govt. can notify a model PAAA agreement or set out mandatory clauses to be included in such a			A-17	1. The rights of slum dwellers provided under Regulation 33(10) in paragraph 1.16 does refer to transit rent. Default of transit rent is viewed very seriously by SRA and various actions. New initiatives of recovery certificate, advance rent will result in decrease of rent complaints. 2. On minimum rent/criteria for fixing rent, please refer to the response in 7(4) above.

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		of the High Court that standard rent has been fixed and varying amounts recovered. There are no adequate avenues for the slum dwellers to agitate their disputes. While there is a mechanism under Section 13 (2) for changing a developer, this has been proved to be largely ineffective		PAAA				
16.	Fixation of Transit Rent, by Developer and obligation of payment of Transit Rent to Slum Dwellers.	In the present S.R. Scheme redevelopment is completed O.C. has been granted in the near 2021. Occupants / Slum Dwellers have been shifted in Rehab Building. However, dispite regarding payment of transit rent to slum dwellers is pending before Ld. AGRC by following Application / Appeal:- (i) Application / Appeal [L] No. 26 of 2023 [Harishchandra Kesharwani and Anr vs SRA]; (ii) Application / Appeal [L] No. 24 of 2023 [Abbas Hussain and Ors vs SRA]; (iii) Application / Appeal [L] No. 27 of 2023 [Abdul Samad Ismail Maknojiya vs SRA]; There is no mechanism under the Scheme, to fix		a. Fixation of minimum transit rent should be by SRA considering the location and other factors in consultation with stake holders – minimum 5% year wise increase should be implemented strictly. In this regard, a condition should be recorded in LOI itself. b. Registered Tri-partite Agreement between Developer, Society and Slum-Dwellers should be executed at the time of appointment of Developer, wherein, transit rent amount payable to slum dwellers should be mentioned [Stamp duty should be exempted].			T-10	Please refer to the response in 7(4) above.

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		reasonable transit rent and the same is left to the Developer, this leads to dispute between the Developers and the slum dwellers. That a mechanism should be devised for uniformity of payment of rent to all the slum dwellers as large number of slum dwellers are aggrieved by quantum of transit rent and have been running from pillar to post for transit rent before SRA. This Hon'ble Court is burdended with a lot of litigation due to non-payment of transit rent. Minimum Transit Rent, considering location and other factors, should be, decided by SRA and, not left to the Developer. Developers arbitrarily decide nominal / meagre transit rent amount, by managing the Committee Members of the Society, which then becomes binding on all the members. Thus, once the transit rent rate is fixed litigation shall be reduced and payment of transit rent can be made at the level of appointed SRA authorities.						
17.	Only 02 (two) Asst. Registrar of Co-op. Societies [In short '**ARS**'] to decide issue of transit rent of slum dwellers.	At present there are only 02 (two) Asst. Registrar of Co- op. Societies [In short '**ARS**'] to decide transit rent of slum dwellers, who are		a. At least 04 (four) Officers of SRA, should be appointed by SRA, exclusively dedicated, for			T-10	1. On appointment of additional personnel, please refer to the responses in Point 11 above. 2. On complaints regarding non-payment of transit rent, please refer to the response in point 15(1) above.

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		burdened with many functions.		deciding rent and lottery related issues for speedy disposal of grievances of Slum Dwellers, Society and Developer. b. any complaint/grievance of rent should be decided on priority and In case of default, found on part of Developer, it should immediately followed with 'Stop Work Notice', and on further default with 13(2) proceedings.				

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION
SUO MOTO WRIT PETITION NO. 1 OF 2024

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SUGGESTIONS REGARDING LACK OF INDEPENDENCE AND OBJECTIVITY IN FUNCTIONING OF STATUTORY AUTHORITIES

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Sr. No.	Specific Issue / problem identified	Cause of the problem	Relevant existing Statutory Section(s), Regulation(s), Rule(s), Circular(s), Guideline(s) and / or Judgment(s)	Proposed Measure / Solution	Whether Proposed Measure / Solution requires amendment of law by Legislature	Proposal for Legislative Reforms	Reference	Views and Suggestions of the SRA
1.	Issuance of Stop work notices in an arbitrary manner	The issuance of stop-work notices on complaints received by SRA, even on issues which do not pertain to planning or permissions. In a situation where a developer receives a stop work notice, the developer has no choice but adopt legal proceedings to set-aside such a stop work notice which leads to prolonged delays and legal costs	Section 3A(3) of the Slum Act	The SRA ought to issue a show-cause notice only upon receipt of complaint by atleast 51% of the eligible slum dwellers and conduct a prior hearing and inquiry before issuing a stop-work notice. The procedure for issuance of stop- work notice ought to be initiated only in cases of violation/non-compliance of any construction permissions as regulated under the relevant regulation of the DCPR and MRTP Act.	No. Section 3A (3)	Circular/rules may be issued clarifying stop-work notices may be issued, only for violation of permissions or law under the DCPR, MRTP Act. Other civil remedies are always available to parties. The SRA ought to issue a show-cause notice only upon receipt of complaint by atleast 51% of the eligible slum dwellers and conduct a prior hearing and inquiry before issuing a stop- work notice. The procedure for issuance of stop-work notice ought to be initiated only in cases of violation/non - compliance of any construction permissions as regulated under the relevant regulation of the DCPR and MRTP Act.	T-7	It is against the principles of natural justice to restrict an individual's right to complain before the SRA. However, the SRA will consider providing a hearing opportunity and undertake a verification before issuance of a Stop Work Notice. SRA is a supervising authority. On any compliant being brought to its notice, it is duty bound to take cognizance of the same since it relates to the functioning of a slum scheme. Even dehors any complaint, the SRA can act suo – moto. The power of the SRA ought not to be circumscribed. As regards the issuance of stop work notice, the same is never issued lightly without considering the relevant facts.

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2.	Regulatory capture and lack of independence and objectivity in the functioning of statutory authorities	As currently conceived, slum rehabilitation schemes can only work if a range of incentives are offered to private developers to deliver "free" housing units and amenities to public authorities. Development authorities seek to make projects more attractive for market actors in order to generate revenue or to achieve policy objectives such as rehousing slum dwellers or creating infrastructure for public use. This institutional arrangement is based on contradictory objectives, since the regulatory agencies have an interest in incentivizing development intensity and relaxing development controls rather than enforcing norms and ensuring quality of construction. The basic rights of citizens to voice their concerns, to livelihoods, to a healthful environment, or to public goods *are all conceived by the government and developers alike as costs or impediments to development.* Such is the entanglement of the interests that public authorities *resemble market actors rather than custodians of the public interest.* It has become a common practice to amend development regulations in favour of industry to make schemes more profitable – to the extent that regulations reflect *aspirations of industry as opposed to expressions of the public interest.* Slum rehabilitation is without a doubt a classic case of regulatory capture.		**Integration of slum rehabilitation under the RERA Act:** To overcome the problem of information asymmetry between development authorities / developers and slum-dwellers, for stipulations on time and quality of construction, and for dispute resolutions, slum redevelopment projects must be included within the ambit of the Maharashtra Real Estate Regulation and Development Act (RERA). It must be noted that the RERA defines an "allottee" not only as a "buyer" but as a "person to whom a plot, apartment or building...has been allotted, sold...or otherwise transferred by the promoter and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise" and therefore the Act can very well be extended to slum rehabilitation projects. **Independent monitoring and review of the Slum Act:** apart from the regulation of projects, it is necessary to set up an independent and interdisciplinary body of individuals that is tasked to evaluate the functioning of slum rehabilitation projects in the city and provide periodic information and feedback to the public regarding the performance of the Slum Act. The body must be empowered to be able to obtain information from all stakeholders (development agencies, planning authorities, promoters, slum-dweller societies, etc.) review progress and provide recommendations for the purpose of achieving good quality, affordable and accessible housing for all low-income groups.	Amendment to the Slum Act, a directive from the High Court bringing slum rehabilitation schemes within the purview of the RERA Act.		T-6	1. In respect of applicability of RERA, please refer to the response in point 18(1) in Table 3. 2. On setting up an independent body to audit schemes, the State Government has over the years introduced multiple avenues and mechanisms to hear grievances and monitor schemes, Additionally, all orders of the SRA are appealable. Moreover, all the orders/ notices/ directions/ decisions of the CEO are appealable before the AGRC which was set up after the directions of the Bombay High Court in Tulsiwadi Navnirman Co-Operative Housing Society v. State of Maharashtra (Writ Petition No. 1326 of 2007). 3. All the scheme related information is available on the website of the SRA. The SRA makes improvements to their functioning by issuing circulars. In cases where there are complaints of non-payment of rent, the SRA has empanelled auditors to determine whether agreed rent is paid or not. The SRA also calls for reports from independent institutions such as VJTI, etc. to verify structural integrity of rehab buildings. Therefore, there is sufficient monitoring of schemes and of the SRA itself.

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3.	SRA is seen to be toothless in responding to the grievances of the slum dwellers.	SRA embodies planner, executer and a judge all at once. A scan of the SRA orders of the years reveals that it is motivated to provide and facilitate 'ease of doing business for the developers. Due process as defined by policy is often compromised. When slum dwellers approach the SRA with questions and complaints about fraudulent signatures, meetings which did not follow due procedure etc, the slum dwellers have not been given adequate hearing.	Government Resolution dated 25.05.2022 which lays down the mechanism the SRA should follow in case of stalled schemes. It also provides for penalties in case the developer fails to complete SRA scheme.	A mechanism should be introduced, by way of which an independent body can carry out regular audit of the scheme, particularly when there are grievances from slum dwellers.			T-6	1. Please refer to the response in point 18(1) in Table 3. 2. On forged signatures, please refer to the response in point 8 in Table 2.
4.	Once a power of attorney is given to the developer by the society, the developer proceeds with the scheme without any transparency or accountability to the slum dwellers. Decisions such as mortgaging the property, amalgamation of plots, entering into co-partnership with third parties etc. are taken based on the power of attorney or approved Annexure -III without any information to the slum dwellers.	Absence of any legal provision which makes it mandatory to obtain consent of the slum dwellers before making important decisions such as mortgaging the property, amalgamation of plots, entering into co-partnership with third parties etc.	33(10) VIII 3.13, DCPR, 2034 33(10) VIII 7, DCPR, 2034 33(10) VIII 10, DCPR, 2034 33(10) VIII 11, DCPR, 2034 GR dated 11.09.2019	The lease agreement of the land must be signed by the society and the land-owning authority should clearly set out the terms of the agreement. No developer should be permitted to modify the original rehabilitation scheme without securing the approval of at least 71% of the slum dwellers, rather than the 50% threshold.	Yes	Amendment to 33(10) DCR, 2034 to the effect that Lease agreement must be signed b/w the slum dwellers and land-owning authority with a clause stating that no encumbrances should be created on the land and any changes/ alteration in the scheme should first get approved by the majority of slum dwellers, SRA and land-owning authority.	T-6	1. In respect of private land, the SRA is considering restricting mortgaging slum rehabilitation land. 2. As regards lease, the same has been answered hereinabove.

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5.	No Regular Audit	Once an SRA Scheme is announced, the SRA Authority does not make an effort to check the implementation status of the scheme. No checks and balances in place to gauge the implementation status of the scheme.		A mechanism should be introduced, by way of which an independent body can carry out a regular audit of the scheme.			T-6	1. The SRA conducts inspections on ongoing sites as and when required. 2. SRA schemes are constantly monitored. At every stage of approvals, inspections are carried out. The status of schemes are checked. When permissions are being issued at each stage of the scheme, the parameters of LOI are being checked and compliance with the terms of the LOI is also checked. 3. On the point of independent and regular audits. Please refer to the response in 2(1) above.
6.	AGRC Proceeding Procedure for proceeding Arrogant and misbehave by officials.	Presently AGRC presides once in week or once in 2 weeks. Basic rules of civil procedure should be applicable while conducting hearing. Follow up with the Authority regarding decision of the Application results in diverting the slum dweller from office of one officer to another officer without any result. Many a times the slum dweller went for the follow up for their application are threaten to be implicated in false criminal cases by the various officers of the SRA especially by the		Hearing should be audio and videography and it should be available online. Online hearing facility as available in the Hon'ble High Court of Bombay. Complaints received against any officer of the SRA must be decided by the department of the Housing Secretary rather that diverting the application to CEO SRA who had fail to take any action in past. "Slum day" is a must once a week to address the problems of the slum Dwellers in which not only Slum Dwellers who are intellectually disable but also their representative and Advocates should be allowed with all the officer present for the meeting. Hearing of AGRC should be conducted daily as the other courts.	Yes! Legislation is required amendments and insertion of new provisions in the current legislation.	Provision should be added for in camera proceedings. Administrative order for implementation of machinery for online hearing. Amendment in the existing legislation for application of Civil Procedure Code should be carried out. Provision for Slum day should be inculcated in present provision. Legislation specifying composition of member of AGRC mandatory	T-1	1. AGRC which was set up after the directions of the Bombay High Court in Tulsiwadi Navnirman Co-Operative Housing Society v. State of Maharashtra (Writ Petition No. 1326 of 2007). It is a specialized body of experts who are well aware of the housing situation in Mumbai. The SRA is a unique and special legislation enacted to address the situation of slums in Mumbai. The same has been recognized by the Hon'ble Bombay High Court in the aforesaid decision. 2. The AGRC is sitting on alternate Fridays on the request of several advocates. However, the AGRC

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	Roznama, date of Presiding	female arrogant, corrupt and cunning officers. Roznama as well as cause list should be publish online with updates as like the.		Independent body of committee consisting of one judicial member, one technical member and one administrative member who all are the independent should not be from SRA Department like other tribunal working. The scheme is the beneficiary and hence for the transparency it should be available online to all. Even the eligibility proceeding. Orders, circulars, office notes, letters should be scan and available to the public online on website. Checks and balances there must be authority to giving its reports audit report working of whole system of SRA. Eligibility time period, any application, appeal should be decided within specified time period.				will increase its sittings to reduce pendency. The SRA will apply to the State Government to increase the staff under the AGRC to expedite issuance of orders. 3. The Roznama of the AGRC will be uploaded. 4. The SRA will consider applying to the State Government for audio and video recording of AGRC proceedings. 5. Slum dweller societies prefer to be heard in person in most matters. However, links are already provided to persons who wish to appear through video conferencing. 6. A grievance redressal cell is set up in the SRA that hears citizen grievances on a daily basis between 3 pm to 5 p.m. 7. The AGRC was set up as a quasi – judicial body within the Slum Act to hear appeals against the orders of the CEO. The officers on the AGRC have on-site experience in planning, administration and dealing with citizen claims. A judicial member is not needed

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								at the moment. 8. The AGRC examines records and conducts hearing. Orders of the AGRC are on the basis of records and submissions of parties. CPC cannot be made applicable to quasi – judsicial proceedings since the same will only lead to delays in the proceedings. 9. Orders of the AGRC are uploaded on the AGRC's website. 10. On timelines for deciding eligibility appeals, please refer to the response in point 2(2) in Table 1.
7.	Arbitrary acquisition of a slum encroached property of a landowner	Acquisition proceedings are utilized as a land grabbing tool by third party developers at the behest of slum dwellers. Upon the SRA declaring a particular property as slum under Section 3 (C)(1), the landowner is given an opportunity to justify why the said land ought not to be acquired. In these hearings, the landowner may show his inclination to rehabilitate and redevelop his property. However, pursuant to hearings held, the landowner is not kept informed about the any decision that the SRA and/or the State Government takes. It is only when the notice is published that the landowner	Section 14 (1)	Provisions ought to introduced in the said Act, to enable the landowner to challenge the report filed by SRA with the State Government. Before filing the report or before the State Government rendering its final decision, the report of SRA should be forwarded to the landowner, to allow him to challenge the same in a time bound manner. Only on failure of the landowner, to challenge the same with the prescribed time limit, should the State Government proceed with acquiring the land under section 14(1) of the said Act. The statute should provide for an opportunity to be given to the landowner to file his proposal even after period of 120 days has lapsed under section 13(1). However, a	Yes		T-1	1. It is settled law that the preparatory steps cannot be subject matter of challenge. 2. Before considering the final acquisition, the parties are entitled to make representation, at which stage they can seek copies of all relevant documents. 3. As regards Section 13 (1), the period of 120 days, the same has been interpreted by this Hon'ble Court in various matters and the same is sub – judice before the Hon'ble Supreme Court.

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		is made aware that the land is acquired. There is absence of transparency in the manner in which acquisition process is undertaken and the entire process is arbitrary. This leads to further litigation and further delays the process of redevelopment of slums properties.		time limit may be prescribed based on a justification given by the landowner as to why he is approaching the authority after the period of 120 days. Even if, the CEO (SRA), at the instance of slum dwellers, has initiated acquisition proceedings under section 14 (1) of the said Act, if a landowner files his proposal to redevelop the slum encroached land, then there should an immediate stay on the acquisition proceedings and such proceedings ought not to be entertained, unless the landowner withdraws his proposal to redevelop.				
8.	Premises allotted without OC	The developers in connivance with the SRA Officers with the intent to escape from the liability of payment of premiums and other charges payable to the SRA and State, illegally allot the permanent accommodation without O.C. and without complying with the LOI, IOA, C.C. terms and conditions. The Slum Dwellers are forced to take possession of the permanent accommodation without O.C. to the rehab building and the illegal lotteries are being held in connivance with the officials of Co-Operative department of the SRA and developer and the society. Due to non- issuance of O.C. by the SRA, the occupant of the rehab.		The allotment of the permanent accommodation should not be allowed without the issuance and compliance of the O.C. and the payment of the premium and further compliance of the LOI, IOA, C.C. along with the firefighting compliance. Further, the developer should not be allowed to sell or create third party rights of the 50% of the sale component till O.C. to rehab component is issued and the transit rent is cleared by the developer and the full premium is paid to the SRA.			A-10	1. The rehab tenements are handed over post OC. The SRA has already issued Circular 162A as per which the developer is required to handover the rehab tenements to the Estate Department of the SRA which then hands over the tenements allotted by the ARS department to the slum dwellers. 2. The SRA has also issued circular 210 as per which the outstanding rent alongwith advance rent has to be deposited with the SRA. 3. The SRA issues CC to the free sale component proportionate to the CC for rehab portion as stipulated in the DCPR. 4. Restricting selling rights of the developer will affect the working capital of the developer and delay rehabilitation schemes.

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9.	Circulars being issued without due process of law	CEO, SRA issues day to day internal circulars some of which gives effect to the provisions of the Slum's Act, DCPR, MRTP Act and is the travesty of the justice. Various circulars are not published or no objections are being called on and without following the due process of law the circulars are being issued. RERA, 2016. The difference here in SRA is that though the Developers remain liable to sale component which they get as incentive for constructing houses free of cost to slum dwellers, they are not liable to Government or SRA or slum dwellers as such. Everything depends upon the integrity of theDeveloper whose engineers are never responsible for quality. Third Party Quality auditors are nowadays empanelled by SRA to oversee the quality. The Third-Party Quality Auditors hardly ever visit the site. There exist no SOP for TPQA and quality. Their reports, if any, are just for the sake of record with no checks by staff.		All the circulars issued by the CEO, SRA be examined and be published and objections from the people at large be called for before issuing such circulars, which affect the ultimate provisions of the parent Acts. There should be specific provisions to keep tab and confirm the legality of such circulars and further call on objections and suggestions from the slumdwellers as well as developers with respect to the issuance of arbitrary internal circulars by CEO, Executive Engineers or any other concerned officer of the SRA. Institute of Social Sciences, VJTI, Indian Institute of Technology, Human Rights Organisations, Health experts doctors team from J.J. or K.E.M. Hospitals. Active participation of experts like Architects, Chartered Accountants, Advocates, Doctors, Social activist, organizations working in the Slum Rehabilitation by way of "SRA Advisory Committee" be formed to look after the day to day problems of the slumdwellers and developers.			A-10	1. The SRA requires regular monitoring of schemes. From experience it is learnt that Circulars are the efficient way of regulating schemes. 2. The circulars issued by the SRA are for the effective and speedy implementation of schemes. The SRA has issued multiple circulars such as 210, 152, 163, etc. 3. The SRA is a body of senior bureaucrats and representatives who have extensive experience of the day to day working of schemes and housing situation in Mumbai. Additionally, these functionaries are appointed by the State Government which has oversight over the officials. The SRA is the body that is undertaking several responsibilities of a planning authority. The SRA has the Engineering Department which possesses expertise in ensuring viability of the scheme and also the nature of construction involved. The SRA also has a legal team which assess rights of all the persons involved in the scheme.

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11.	Lack of independence and objectivity in the functioning of statutory authorities	This is the major reason for the present state of affairs and the mess in the slum rehabilitation schemes. Because: a) The government often delays bringing new laws or amendments due to electoral politics. b) Most actions or decisions of government are based on electoral politics. c) It is learned that at present most of the appointment is done either based on paying (illegal) premiums for the posts to political bosses or as per the agenda of political bosses. Plum posts are literally auctioned. In turn, the officials get unwritten permission to recover premiums and earn profits over investment. d) Appointments are done without any specific tenure. e) The conflicting interests of slum dwellers and their societies, rival developers, and local politicians gave many opportunities to officials to use immense discretionary powers. f) Multiple laws/policies having unclear, contradictory, conflicting provisions or no provision to deal with typical situations give unchecked discretionary powers to officials, which they mostly misuse. g) Courts also sometimes pass Orders that are unclear,		Immunity given under the Slum Act to authorities and officials needs to be changed/removed to make the officials accountable and responsible for acts and omissions. Ambiguity in laws and policies needs to be cleared. Permanent mechanism to access requirements of number of officers / staff / infrastructure and timely filing of vacancies before vacancies are created. Permanent mechanism for review of acts and omissions by the High Court Permanent audit for performance audit for officers and system/process. All officers who make a decision that is contrary to express provisions of law / policy, judicial precedents and documents or cause unreasonable delay must be held disqualified for holding any government post. A permanent inquiry mechanism shall be established for regular periodic inquiry against officers. Disqualified officers shall be held liable to return all benefits earned so far and shall be disqualified for future benefits.			A-11	1. On disciplinary action against errant officers, please refer to the response in point No. 5 in Table 1. Additionally, protection for actions done in good faith by officers is present in all legislations so as to protect officials from undue harassment. 2. On permanent audit, please refer to the response in point 2(2) above.

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		contradictory, conflicting views and give unchecked discretionary powers to officials, which they mostly misuse. h) Higher courts are overburdened and it takes years to decide a case. Hence, there exists no one to audit or review the acts and omissions of the officials.						
12.	Lack of transparency	The implementation of the Slum Rehabilitation Act has been marred by a lack of transparency and inconsistency. Circulars, notifications, guidelines, rules, and regulations are often not readily accessible to the public, leading to confusion and potential exploitation		All circulars, notifications, guidelines, rules, and regulations related to this Act shall be published on a dedicated website within 24 hours of issuance. A consolidated up-to-date version of all active directives shall be maintained and made publicly accessible. Failure to publish or update as required shall render the directive inoperative until published.			A-17	The SRA will update its website on a daily basis. The SRA will also upload all its circulars in English and Marathi.

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION
SUO MOTO WRIT PETITION NO. 1 OF 2024

IN RE: PERFORMANCE OF AUDIT OF THE MAHARASHTRA SLUM AREAS (IMPROVEMENT, CLEARANCE AND REDEVELOPMENT) ACT, 1971.

…Petitioner

Versus

THE STATE OF MAHARASHTRA & ORS.

…Respondents

SUGGESTIONS REGARDING EFFECTIVENESS OF STATUTORY REMEDIES

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Sr. No.	Specific Issue / problem identified	Cause of the problem	Relevant existing Statutory Section(s), Regulation(s), Rule(s), Circular(s), Guideline(s) and / or Judgment(s)	Proposed Measure / Solution	Whether Proposed Measure / Solution requires amendment of law by Legislature	Proposal for Legislative Reforms	Reference	Views and Suggestions of the SRA
1.	Constitution of AGRC	The Government of Maharashtra vide Notification dated 08.03.2017 has constituted the Apex Grievance Redressal Committee ("**AGRC**") for hearing all appeals under Section 35 of the Slum Act. As per the aforesaid notification, the AGRC constitutes one chairperson and four members which are all serving public servants, including Chief Executive Officer, SRA. The orders/notices/directive under challenge before the AGRC are usually passed by the Chief Executive Officer, SRA. Chief Executive Officer, SRA, Mumbai is also a member of the AGRC for deciding appeals against orders passed by the Chief Executive Officer, SRA, Mumbai and usually recuses from hearing such matters.	Government of Maharashtra's Notification dated 08.03.2017	It is suggested that the constitution of the AGRC ought to be changed. The AGRC ought to be presided by judicial members, not below the ranks of Principal District Judge. The AGRC ought to be permanently sitting body to enable it to preside over, on day to day basis for deciding the cases before it more expeditiously. The AGRC is ought to have a dedicated registry for better case management.	No. The Notification dated 08.03.2017 must be amended vide a fresh notification.		T-7	AGRC 1. On appointment of judicial members in the AGRC, please refer to the response in point 6(1) in Table 6. AGRC which was set up after the directions of the Bombay High Court in Tulsiwadi Navnirman Co-Operative Housing Society v. State of Maharashtra (Writ Petition No. 1326 of 2007). The said body is established under a legislative provision in furtherance of the decision in Tulsiwadi. The AGRC is a quasi – judicial body requiring special knowledge. The situation of slum rehabilitation in Mumbai requires consideration of lack of space and density in Mumbai. The members of the AGRC are all experts in planning laws and housing

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								policies in Mumbai. 2. On sittings of the AGRC, please refer to the response in point 6(1) in Table 6. 3. The SRA will consider taking steps to set up a dedicated registry for the AGRC for better case management.
2.	Separate unit for eviction in Slum Rehabilitation Scheme	For timely enforcement of the orders passed under Sections 33 and 38 of the Slum Act, there is a requirement of the help of police force and demolition team. However, the police department being overburdened is not able to provide adequate police force due.	Section 33 and 38	SRA ought to have separate units established for undertaking the task of providing adequate security force and as well as have a dedicated unit for carrying out demolitions in a timely manner. A similar suggestion is already contemplated under the draft housing policy 2024.	No. Section 33 and 38		T-7	The SRA already has a Special Cell which handles evictions and demolitions under the Slum Act. Police help, as and when required, is sought from the police.

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3.	Since the SR Scheme has been formulated, it has never been evaluated or reviewed. Multiple changes have been affected in the scheme, but there has been no comprehensive review and evaluation of the scheme; lack of independent monitoring evaluation and review body of the scheme.	The SRA currently embodies multiple roles: implementer, adjudicator as a quasi-judicial authority, project rehabilitation and also reviewer. Thus, there is absence of independent body to undertake this task which is necessary.		There is an urgent need to understand and reassess the complex issues that the slums represent and the schemes should be molded accordingly. It should not be a one-time study, but it is required that a body be instituted to conduct multiple, relevant studies which can then be considered by the SRA for implementation.			T-6	The SRA engages professionals as and when there is a need to conduct studies for better implementation of schemes. Measures such as advanced Software, inputs from Engineering department, Rent management system, Auto – DCR, Auto – Annexure II are useful.
4.	Appeal and 2nd Appeal for eligibility	Non action by the authority and prologues	Guidelines by the Hon'ble Bombay high court	Appeal should be decided by the authority in 30 days	Already guidelines by Hon'ble Bombay High court	Guidelines and circulars should include in the slum act	T-1	Please refer to the response in point 2 in Table 1.
5.	Appeal before AGRC	Non action by the authority and prologues	Guidelines by the Hon'ble Bombay high court	Appeal should be decided by the authority in 30 days	Already guidelines by Hon'ble Bombay High court	Guidelines and circulars should include in the slum act	T-1	Please refer to the response in point 2(2) in Table 1.

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6.	Section 35(1A) enables any person to challenge any notice, direction, decision, order, permission or approval given by the CEO SRA before AGRC.	Whilst this provision is intended to protect the rights of individuals, it is abused by persons with vested interest to delay slum rehabilitation scheme. Given the wide scope of the provision, it promotes litigation as it enables any person who may not have a legitimate interest in the redevelopment to challenge an order of CEO.	Section 35 of the Slums Act	This right of appeal should be restricted to orders which are patently illegal. The AGRC should be restricted from adjudicating the merits of dispute and the challenge should be restricted to any act of CEO which is contrary to the law, akin to Section 34 of the Arbitration and Conciliation Act, 1996.	No. Directive can be issued narrowing the scope of appeal and nature of orders which can be challenged. Further, challenge should be restricted to patently illegal orders and appellate authority should not review the orders of CEO and/or other SRA authorities orders on merits.		T-1	The AGRC is the first appellate authority for orders passed by the CEO which pertain to substantive matters such as declaration of a Slum Rehabilitation Area (Section 3D), notifying a slum rehabilitation scheme (Section 3B), appointment of developers (Section 3B), change of developer (Section 13(2)). These are significant powers and therefore, to maintain balance, the AGRC has been vested with wide powers to decide all orders/ decisions/ notices/ declarations passed by the CEO. Proceedings under the Slum Act cannot be compared to an award passed under the Arbitration Act. Given the above reasons, it would be grossly unfair to all stakeholders under the Slum Act to restrict the powers of the AGRC.

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7.	Adjudicating mechanism under slum act is ineffective.	**<u>Availability and sitting of AGRC</u>:** Records available on Apex Grievance Redressal Committee's [In short 'AGRC'] website show that they assemble on an average 12-13 times a year (i.e. once in a month). This has created huge backlog of cases before AGRC. Database available on website concreates this plight. Such non-availability of AGRC opens flood- gate of litigation at Hon'ble Bombay High Court u/a 226 / 227. Orders / directions of Chief Executive Officer, SRA [In short 'CEO–SRA'] and delegated authorities / officers of CEO–SRA are challenged before AGRC. Ironically, CEO–SRA is also member of AGRC. This also goes against the judicial principle of *nemo judex in causa sua* (No one should be a judge in their own cause). Conflict of interest in constitution of AGRC cannot be ruled out. **<u>Availability and sitting of GRCs</u>:** Same difficulties is apparent before 02 (two) Grievance Redressal Committees [GRC's], except conflict of interest. Moreover, members of AGRC / GRC being bureaucrats already having different charge, their availability also at times becomes difficult. Numerous Praecipes / Applications are filed for listing of Appeals, however, those are not listed. It escalates the plight of slum dwellers and opposite parties, as their is no proper procedure for listing of urgent matters. Applications and Appeals of sec. 33 / 38 proceedings and Developer's Applications are given priorities. Appeals for transit rent and other grievances are kept pending and unadjudicated before Authorities / GRC / AGRC for years. There is no proper procedure followed before the Authorities / GRC / AGRC,	Sec. 35 of Slum Act. Order dated 19.07.2019 passed by this Hon'ble Court in the matter of *Aslam Hasimali Shaikh v. State of Maharashtra* in Civil WP No. 5600 of 2019.	Records / database of pending and disposed of proceedings before AGRC / GRC, may be called for consideration. To appoint retired High Court Judge as Chairman of AGRC, similarly, retired District Judge as Chairman of GRC [as observed by this Hon'ble Court in the matter of *Aslam Hasimali Shaikh v. State of Maharashtra* in WP No. 5600 of 2019], which should be fulltime, sitting on daily basis. Procedure be provided for listing of urgent matter, before AGRC / GRC and Appellate Authority. Application / Appeals etc should be decided strictly on seniority basis, except in cases of urgency, which should be recorded in writing. Hybrid Hearing System (physical and online) must also be established and implemented. Dashboard may be directed to be created for cases pending and disposed of cases before AGRC, GRC's, Additional Collectors, Competent Authorities and ARS. Appellate Authorities (including GRC) should have powers to declare eligibility and issue supplementary Ann – II [now the Appellate Authorities despite coming to the conclusion that the slum dweller is eligible, does not decide eligibility, but remands back the matter to Competent Authority, for deciding eligibility. This compels the slum dwellers to file multiple litigation to decide their eligibility. Application for deciding eligibility should be numbered and decided expeditiously and in any case within 30 (thirty) days, that too			T-9	1. On sittings of the AGRC, please refer to the response in point 6(1) in Table 6. 2. On the matter of the CEO being a member of the AGRC, the CEO – SRA recuses himself from the quorum when the orders passed by CEO – SRA are being considered by the AGRC. 3. On the issue of GRC sitting, the GRC will increase its sittings. 4. On the issue of case management, please refer to the response in point 1(4) above. 5. On appointment of judicial members to the AGRC, please refer to the response in point 6(1) in Table 6. 6. On hybrid hearing systems, please refer to the response in 6(4) in Table 6. 7. The SRA will maintain a dashboard for cases pending and disposed of before AGRC, GRCs, Additional Collectors, Competent Authorities and ARS. 8. For introducing or reducing timelines for GRC and AGRC to decide appeals, please refer to the responses in Sr. Nos. 4 and 5 above. 9. On Appellate Authorities issuing supplementary Annexure-II, the

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		resulting in multiplicity of litigation. There is no regular sitting of GRC / AGRC / Appellate Authority. These Appellate Authority/ Committee decide substantial rights of the litigants, however, not being judicial members, their orders at times are non – judicious and erroneous, therebymakingthe remedy meaningless.		strictly as per seniority list of date of Application. Because, it is seen eligibility Applications are kept pending for months and years and when it comes to eviction of the slum dwellers, the same is decided within weeks. At times, it is also seen out of turn Applications are decided. To appoint a Guardian Judge of Bombay High Court for AGRC / GRC.				Appellate Authorities will have to be notified as a Competent Authority under the Slum Act. This would create a legal anomaly in the Slum Act. Instead, the Appellate Authorities will, going forward, include a remark in their order requiring the Competent Authority to issue supplementary Annexure-II in a specified timeline and send a report to the Appellate body.
8.	Constitution of AGRC, frequency of functioning, and background of members.	The Grievance Redressal Committee / Apex Grievance Redressal Committee ("**GRC**"/"**AGRC**") do not regularly hold hearings and as a result, appeals are pending before AGRC for years. The simple issue here is that the AGRC convenes at a fort-nightly interval and further needs a quorum of 3 out of the 5 members. Additionally, even on the orders finally being passed by the GRCs, the same are challenged by the aggrieved person/s before the Hon'ble Bombay High Court, which in turn extends the timeline of the disputes, as the rehabilitation project remains at a standstill. Furthermore, merely once an appeal is preferred by the slum dwellers mainly in case of eviction proceedings, SRA officers themselves prefer not to take action on the basis of appeal/ application being is lodged. There is an administrative failure among the ranks of the SRA officers to dispense action on basis of orders if mere appeal is filed despite the clear words under Section 35(3) that state that mere filing of an appeal shall not operate as a stay. This leads to fixed costs of the developers like transit rent, admin costs, interest costs never cease which push the	The concept of the High-Powered Committee started with decisions of this Hon'ble Court. It was a temporary mechanism. Thereafter, GRC was constituted under Section 34-A of the Act and the committee has received statutory recognition. Section 35 of the Act.	The AGRC / GRC should consist of three / five permanent members, that have the sole responsibility of hearing matters placed before it coupled with a power to delegate its functions to one or more of its members [not third person] depending on the workload. State Government to formulate rules and procedure under Slum Act dispensation of functions of AGRC / GRC. It is necessary to have the Committees functioning full-time, on all weekdays, to resolve the issue of pendency. Accordingly, provisions of the Act/Notifications therein need to be amended.	Issuance of notification under Section 34A(1) and Section 34B(1) published in the Official Gazette for reconstituting GRC and AGRC. To make rules and regulations under Sections 3V and 46 of the Act, for the powers, functions and procedure of GRC and AGRC.		T-8	1. On sittings of the AGRC, please refer to the response in point 6(1) in Table 6. 2. On actions under Section 33, please refer to the response in point 3(2) in Table 2. 3. The GRC Rules deal with the rules and procedure of the AGRC and the GRCs. Rules and procedures for the functioning of the AGRC and GRC under the Slum Act are already existing.

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		project towards becoming financially unviable. The members of the Committee are senior civil servants already burdened with their existing responsibilities, coupled with functions of AGRC/ GRC and therefore, unable to hear the matters in a timely fashion.						
9.	Non compliance with legal safeguards	(i) Several provisions of the Act, such as mandatory consultations with slum residents and legal protection against eviction without due process, are frequently bypassed by developers. (ii) The failure to establish robust legal mechanisms to protect slum dwellers' rights has allowed for unchecked exploitation of vulnerable communities		A public body comprising representatives from NGOs, slum dwellers, legal experts, and government officials should be established to oversee the progress of SRA projects and ensure compliance with statutory provisions	Yes	Establishment of a Public Monitoring Body	A-9	The SRA is already under the supervision of the State Government and the AGRC is under the supervision of the Bombay High Court.
10.	Lack of Transparency and Accountability and Delay in Project Completion	Developers often engage in non-transparent practices, such as misrepresentation of project timelines, non-disclosure of financial statements, and withholding of project progress information from slum dwellers The absence of a public grievance redressal mechanism results in prolonged disputes, with slum dwellers left in precarious living conditions Several SRA projects have remained incomplete or delayed beyond reasonable timelines, leaving slum dwellers without adequate housing for extended periods. Developers and contractors frequently cite financial difficulties or bureaucratic hurdles as reasons for delay, without facing penalties for non-compliance.		Timely Audits of SRA Projects - Independent audits of ongoing SRA projects should be conducted regularly to evaluate the financial management, timelines, quality of construction, post construction defect redressals, and compliance to the terms and conditions of the Letter of Intent issued to the Developer by the Engineering Department of the SRA. There has to be a deterrent mechanism within the framework of the Act for Developers who fail to comply to the terms and conditions of the Letter of Intent	Yes	Developers failing to meet the prescribed timelines or engaging in corrupt practices should face stringent penalties and these should be clearly and indisputably delineated within the framework of the Act. The developers who fail to adhere to the contractual terms of the Letter of Intent of the	A-9	1. There is a grievance redressal cell in the SRA that hears slum dwellers complaints every day between 3 – 5 P.M. 2. On developers not facing penalties, as per Section 13(2) of the Slum Act, if the CEO is satisfied that any land in a slum rehabilitation area has been or is being developed by the owners, landholders or occupants or developers in contravention of the plans duly approved, or any restrictions or conditions imposed under sub-section (10) of section 12, or in

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						Engineering Department of SRA should be subject to penalties, including financial restitution to the affected slum dwellers and possible debarment from future projects		contravention of any provision of any Slum Rehabilitation Scheme or any condition specified in the approval or has not been developed within the time, as specified under such conditions of approval, he may, determine to develop the land by entrusting it to any agency or the other developer recognized by him. 3. On independent audits, please refer to the response in point 2(2) in Table 6. 4. On blacklisting from future projects, please refer to the response in point 7(6) in Table 3 5. Currently, where any matter involves an element of criminality, a complaint can be filed before the High – Power Committee - Anti-Corruption Bureau.
11.	Curtailment of Slumdwellers right to object against illegalities of Developers and SRA	Slum dwellers are not allowed to raise issues regarding illegality in the SR Scheme and their scope is limited to rehab tenement.		There should be participation of the slum dwellers and mechanism to address the objections and illegalities of the SR scheme by proper mechanism within stipulated time period.			A-10	Please refer to the response in point 10(5) above.

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12.	Delay in passing orders for change of developer	CEO, SRA after completion of the hearings given by him in the matters of u/s 13(2) of the Slum Act, never passes the order to the extent of one year or more and though the reminders are given. Various appeals and applications are filed before the apex grievance redressal committee thereby challenging various important issues including the orders passed by the CEO/SRA as well as the order u/s 33 & 38, orders passed u/s 13(2) for change of developer etc. The issues challenged before are of the great concern of the slumdwellers. But it has been observed that the AGRC is sitting once in 15 days that is two times in the month. As the members of the committee are the bureaucrat and officers, they are not able to give the time for hearing the pending matters as they are already loaded with their assignments. Further, the orders are being passed with delay. There is inordinate delay in getting the justice to the applicants before the AGRC and thereby the applicants has to either surrender or settle the matter with the developers without getting the justice.		AGRC be dissolved and a separate three-member Tribunal of retired High Court Judges be appointed to hear the matters on day to day basis. In the same manner, separate courts at City Civil courts be appointed in place of the Grievance Redressal Committee.			A-10	1. On sittings of the AGRC, please refer to the response in point 6(1) in Table 6. 2. The AGRC was set up as a quasi – judicial body within the Slum Act to hear appeals against the orders of the Appellate. The officers on the AGRC have on-site experience in planning, administration and dealing with citizen claims. A judicial member is not needed at the moment.

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13.	Effectiveness of statutory remedies			1. Every matter must be decided within a specific time. 2. Every matter must be filed in a specific format with required inputs to avail remedy. Absolute frivolous complaints must attract a penalty. 3. Every respondent must file a response in a specific format with the required inputs to deny remedy to the applicant. Absolute frivolous or delayed defence must attract a penalty. 4. Every Order passed must have a direction for effective and timely implementation. 5. Whenever a court passes any order, it must write it in a specific standardized format and write applicable sections etc so that imp contents must be searchable. A database accordingly shall be maintained which shall be used in the next identical cases by all concerned. 6. Every illegality, breach, violation, non-compliance, delay, failure, negligence and omission must be attached at least with a monetary penal action or reduction in benefits. 7. High Court must review every new law from constitutional and other perspectives in a time bound schedule. 8. Law commission must provide a periodic review of all decisions. 9. Similarly, an existing law must be reviewed by the High Court by taking inputs from Law Commission Reports.			A-11	1. The SRA will consider undertaking a comprehensive study of all the timelines under the Act along with instances where the Slum Act does not provide timelines for crucial decisions. 2. On penal action against developers, please refer to the response in point 10(2) above. The State Government will suggest to the State Legislature to strengthen the penal provisions under the Slum Act to deter non-compliance.
14.	Notice and hearing requirements	The current legal framework provides only for post-decisional appeals before the Slum Tribunal		Amend the law to mandate pre-decisional hearings	Yes		A-16	All hearings under the Slum Act are conducted before passing orders.

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15.	No independent judicial / quasi-judicial dispute resolution forum	No independent judicial/quasi-judicial dispute resolution forum exists to decide slum matters		The establishment of an independent Slum Rehabilitation Tribunal is proposed to separate the judicial function from the implementing authority. This tribunal would serve as an impartial arbiter for disputes arising from the implementation of the Slum Rehabilitation Act. Indeed, the AGRC can be re-purposed and headed by a retired High Court judge to ensure transparency and public confidence in the functioning of the authority (and insulating it from political influence). A statutory appeal may be provided to the High Court where in any event the availability of a remedy in Writ Jurisdiction can always be availed of. The High Court will have the benefit of a judicial finding of fact by such an authority			A-17	1. On appointment of judicial members in the AGRC, please refer to the response in point 6(1) in Table 6. 2. As stated by the Hon'ble Bombay High Court in *Tulsiwadi Navnirman CHS and Ors. v. State of Maharashtra and Ors.* (2008(1)BOMCR1), "111. We have actually not nor should it be understood that we have in any way expressly or implied restricted the scope of applicability of Article 226 of the Constitution to such cases. We have only indicated certain cases where inter- or intra-departmental mechanism may be invoked in consonance with the scheme of the Act before approaching this Court. Such classification is not exhaustive but is merely an indication of class of cases where the Court in its discretion may require the parties to take recourse to such remedy. These principles are neither innovative nor new percepts but are re-appreciation of well accepted principles. 112. Compelling the parties to file suits would neither be efficacious, alternate remedy nor would meet the ends of justice in all cases. The controversies in such cases are best resolved at the administrative level itself as the cause of

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								action is founded on the inaction, incorrect action or colourable exercise of powers by the authorities. The records of the authorities and their action based upon such matters can best be corrected in accordance with the established precepts of administrative functioning and executive action at different levels of the departments within the framework of the Statute." Therefore, in view of the technical nature of disputes and for speedy disposal of cases, a statutory appeal under the Act would not be feasible.
16.	Endless delays in implementation and completion of slum redevelopment projects.	The delays are often the subject matter of prolonged litigation before the adjudicatory bodies under the Slum Act such as the Apex Grievance Redressal Committee. These disputes eventually reach the Hon'ble Bombay High Court under Article 226 of the Constitution. In this process, the progress of the slum project suffers, often leading to delays in completion exceeding 10-15 years. The various stakeholders—SRA, builders, slumdweller committee members and local slum lords in nexus with certain officials, police and elected representatives, are all responsible, though in different and unequal ways, for such in-ordinate delays.	Section 13(2) of the Slum Act	Policy guidelines should be issued inter alia providing for the following: LOI should be issued only after a detailed timeline is submitted. Plans prepared must be discussed with the slum dwllers and copies should be given to them. The plan once finalized approved and issue of commencement certificate cannot be open to changes and amendments. SRA should check on progress every month of the various works and timeline before granting commencement certificate. Once LOI issued the developer cannot sublet or transfer the development rights.		There is an urgent need to set up a statutory mechanism for a regular audit of ongoing projects in order to ensure that they are completed strictly in a time bound manner. This audit should be conducted by participation of all stakeholders.	A-27B	1. On suggested measure 1, LOI itself defines a timeline for every project. 2. On suggested measures 2 and 3, all the plans are approved through an online system and are hence, available to citizens. 3. On suggested measure 4, The SRA already verifies adherence to the project timeline before issuance of CC 4. On suggested measure 5, it is stated that the plans are usually not changed. The same is subject to any planning constraint which the

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				SRA should have the right to take over a project from developer in case the developer fails to make progress as per its timeline. SRA may handover the project to another developer upon due process Period from 3 years to 10 years be given to developer for completing the project depending on the size of the project. SRA should engage independent agencies to provide project assessment. Developer must must operate and manage the project for 2-3 years after completion to cover defects. SRA should secure the transit rent by way of security deposit bank guarantee from the developers				developer encounters. 5. On suggested measures 6 and 7, Section 13(2) empowers the SRA to change developers in case the developer is found to be in default. Please also refer to the response in point 1(1) in Table 3. 6. On suggested measure 7, The LOI clearly specifies that for plots up to 2500 sq.m in size, the SRA gives 3 years to complete the scheme and for larger plots, a 5-year period is given. 7. On suggested measures 8 and 10, latent defect liability period is already 10 years from the completion of the scheme so as to ensure better quality. 8. On suggested measure 9, please refer to the response in point 3(1) in Table 4. 9. On suggested measure 11, Circular 210 has succeeded in considerably reducing instances of non-payment of transit rent.

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17.	Adjudicating mechanism under slum act is ineffective.	1. <u>Availability and sitting of AGRC</u>:- (a) As already explained in point and Sr. No. 6 that fixation of transit rent is a primary problem, however, their issue is *inter-woven* with the issue of adjudication of grievance of slum dwellers / occupants of Society who have been paid transit rent even after 03-04 years of their rehabilitation. It is necessary to put on record that AGRC only take up matters either expedited by this Hon'ble Court or 33/38 proceedings or the matter having disputed related to 13(2) [termination of Developer]. Litigation related to payment of transit rent has been kept in burner. To demonstrate it, around 90 members of the present society have filed litigation for transit rent vide:- (i) Application / Appeal [L] No. 26 of 2023 [Harishchandra Kesharwani and Anr vs SRA]; (ii) Application / Appeal [L] No. 24 of 2023 [Abbas Hussain and Ors vs SRA]; (iii) Application / Appeal [L] No. 27 of 2023 [Abdul Samad Ismail Maknojiya vs SRA]; More than 04-05 attempts have been made to last these Appeals filing praeicpe, however, not even a single time matter / Appeal are listed either in mentioning board or on main board. (b) Records available on Apex Grievance Redressal Committee's [In short 'AGRC'] website show that they assemble on an average 12-13 times a year (i.e. once in a month). This has created huge backlog of cases before AGRC. Database available on website concreates this plight. Such non-availability of AGRC opens flood-gate of litigation at Hon'ble Bombay High Court u/a 226 / 227. (c) Orders / directions of Chief Executive Officer, SRA [In short 'CEO–SRA'] and delegated authorities / officers of CEO–SRA are challenged before AGRC. Ironically, CEO–SRA is also member of AGRC. This also goes against the judicial principle of *nemo*	a) Sec. 35 of Slum Act. b) Order dated 19.07.2019 passed by this Hon'ble Court in the matter of *Aslam Hasimali Shaikh v. State of Maharashtra* in Civil WP No. 5600 of 2019.	a) Records / database of pending and disposed of proceedings before AGRC / GRC, may be called for consideration. b) To appoint retired High Court Judge as Chairman of AGRC, similarly, retired District Judge as Chairman of GRC [as observed by this Hon'ble Court in the matter of *Aslam Hasimali Shaikh v. State of Maharashtra* in WP No. 5600 of 2019], which should be fulltime, sitting on daily basis. c) Procedure be provided for listing of urgent matter, before AGRC / GRC and Appellate Authority. d) Application / Appeals etc should be decided strictly on seniority basis, except in cases of urgency, which should be recorded in writing. e) Hybrid Hearing System (physical and online) must also be established and implemented. f) Dashboard may be directed to be created for cases pending and disposed of cases before AGRC, GRC's, Additional Collectors, Competent Authorities and ARS. g) Appellate Authorities (including GRC) should have powers to declare eligibility and issue supplementary Ann – II [now the Appellate Authorities despite coming to the conclusion that the slum dweller is eligible, does not decide eligibility, but remands back the matter to Competent Authority, for deciding eligibility. This compels the slum dwellers to file multiple litigation to decide their eligibility. h) Application for deciding eligibility should be numbered and decided			T-10	1. On the database/ dashboard of cases before, AGRC and GRC, please refer to the response in point 7(7) above. 2. On appointment of judicial members to the AGRC, please refer to the response in point 6(1) in Table 6. 3. On listing of matters, please refer to the responses in point 1(6) of Table 6. 4. On hybrid hearing systems, please refer to the response in 6(4) in Table 6. 5. For introducing or reducing timelines for GRC and AGRC to decide appeals, please refer to the responses in Sr. Nos. 4 and 5 above. 6. On appellate authorities issuing supplementary Annexure-II, please refer to the response in point 9(7) above. 7. On timelines for deciding eligibility matters, please refer to the response in point 2 in Table 1.

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		judex in causa sua (No one should be a judge in their own cause). Conflict of interest in constitution of AGRC cannot be ruled out. 2. Availability and sitting of GRC's:- Same difficulties is apparent before 02 (two) Grievance Redressal Committees [GRC's], except conflict of interest. 3. Moreover, members of AGRC / GRC being bureaucrats already having different charge, their availability also at times becomes difficult. 4. Numerous Praecipes / Applications are filed for listing of Appeals, however, those are not listed. It escalates the plight of slum dwellers and opposite parties, as their is no proper procedure for listing of urgent matters. 5. Applications and Appeals of sec. 33 / 38 proceedings and Developer's Applications are given priorities. Appeals for transit rent and other grievances are kept pending and unadjudicated before Authorities / GRC / AGRC for years. 6. There is no proper procedure followed before the Authorities / GRC / AGRC, resulting in multiplicity of litigation. 7. There is no regular sitting of GRC / AGRC / Appellate Authority. 8. The these Appellate Authority/ Committee decide substantial rights of the litigants, however, not being judicial members, their orders at times are non – judicious and erroneous, thereby making the remedy meaningless.		expeditiously and in any case within 30 (thirty) days, that too strictly as per seniority list of date of Application. Because, it is seen eligibility Applications are kept pending for months and years and when it comes to eviction of the slum dwellers, the same is decided within weeks. At times, it is also seen out of turn Applications are decided. To appoint a Guardian Judge of Bombay High Court for AGRC / GRC.				

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION
SUO MOTO WRIT PETITION NO. 1 OF 2024

IN RE: PERFORMANCE OF AUDIT OF THE MAHARASHTRA SLUM AREAS (IMPROVEMENT, CLEARANCE AND REDEVELOPMENT) ACT, 1971.

…Petitioner

Versus

THE STATE OF MAHARASHTRA & ORS.

…Respondents

SUGGESTIONS PERTAINING TO MISCELLANEOUS ISSUES

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Sr. No.	Specific Issue / problem identified	Cause of the problem	Relevant existing Statutory Section(s), Regulation(s), Rule(s), Circular(s), Guideline(s) and / or Judgment(s)	Proposed Measure / Solution	Whether Proposed Measure / Solution requires amendment of law by Legislature	Proposal for Legislative Reforms	Reference	Views and Suggestions of the SRA
1.	Categorization and declaration of public open spaces reserved for recreational use as "slums" under the Slum Act Perpetuation of the problem of overcrowding in slum areas and failing to remedy overcrowding in rehabilitation premises/areas on account of the complete failure to maintain adequate, accessible public open spaces	Encroachment on reserved public open spaces by slum dwellers and a failure of the State machinery to free up the public open spaces	**REGULATION 17(3)(D)(A)(2) OF THE DEVELOPMENT CONTROL AND PROMOTION REGULATIONS FOR GREATER MUMBAI, 2034 (DCR):** (i) Any plot/layout having area under non-buildable/open space reservations admeasuring up to 500 sq. m shall be cleared by shifting the slum-dwellers from that site. (ii) Where the area of site having non-buildable/open space reservation, is more than 500 sq. m such sites may be allowed to be developed for slum redevelopment subject to condition that the ground area of the land so used shall not be more than 65% of the reservation and leaving 35% rendered clear thereafter for the reservation.	**INCENTIVIZE THE CLEARING AND MAINTENANCE OF RESERVED PUBLIC OPEN SPACES:** One way to achieve this is to allow for the amalgamation of slum rehabilitation projects contemplated on open spaces with other slum rehabilitation schemes in the same ward (which are not on open spaces). Utilization of FSI from the area of the public open spaces designation that has actually been encroached on may be permitted on other proposed slum rehabilitation schemes in the ward/area, whether or not the same are on a contiguous parcel of land. In lieu of the same, the cleared plot would stand surrendered to the MCGM. The provision of such TDR/FSI would then allow the designated reserved open spaces to be cleared and maintained as public open spaces. **TREATING THE CREATION/RESERVATION AND MAINTENANCE OF PUBLIC OPEN SPACES AS VITAL PUBLIC PROJECTS:** In the alternative to the foregoing, reserved public open spaces should be treated on par with vital public projects under the Regulation 33(10), sub-para 3.11 which provides that slum-dwellers may be accommodated on unencumbered land (by making provision for	The proposed measure may be implemented by an administrative notification/circular under the provisions of Regulation 33(10) declaring all reserved public open spaces as vital public projects.	Under the provisions of Regulation 33(10), sub-para 10 of the DCR 2034, it is permissible for the SRA to club two or more rehabilitation projects. This provision may be invoked in order to club rehabilitation schemes so as to ensure the preservation of reserved public open spaces.	T-4	SRA is considering introducing a cluster redevelopment approach in which two or more slums present within a ward / within a distance of 5 kms with the adjoining ward can be redeveloped and rehabilitated at one place. This would free up the other plots which have been considered a part of the cluster redevelopment. This approach would enable redevelopment of slums which are currently not feasible to be developed as slums due to planning constraints or by virtue of being very small plots. Such slum plots may become feasible for redevelopment as a cluster redevelopment with other slums. Due to this approach, slum on reservations & amenity spaces can be planned in better way and the same may lead to freeing up of amenity spaces due to shifting of slums on another plot. The SRA is considering the viability of such proposed measure. Accordingly legislative amendments will be proposed made for cluster redevelopment.

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Sr. No.	Specific Issue / problem identified	Cause of the problem	Relevant existing Statutory Section(s), Regulation(s), Rule(s), Circular(s), Guideline(s) and / or Judgment(s)	Proposed Measure / Solution	Whether Proposed Measure / Solution requires amendment of law by Legislature	Proposal for Legislative Reforms	Reference	Views and Suggestions of the SRA
				adequate TDR on such unencumbered land) and not rehabilitated *in situ* on the original plot. In view of the scarcity of public open spaces in the city of Mumbai, it is imperative that public open spaces be treated with the same significance as vital public projects.				

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2.	Projects are prolonged	Mortgage of the Development right.	No Provision	Stage wise completion of construction should be submitted before the authority monthly. Bar Chart of work governing various stages of construction should be submitted prior to initiation of construction and if delay is observed there should be specific reason justifying the same and stringent action should be taken on failure to comply with it.	Provision missing legislation for restraining such practice is required	Provision for the restraining such practice is required	T-1	The said issue has been answered in Table No. 6.
3.	less no of PAP generation	Developer and some slum dwellers	No Provision	Instead of allowing the Developer to sale flat that could be taken by the State and sale in open market by way of lottery for instance like MHADA limiting the role of the Developer to Contractor. Biometric survey for proper identification of number of Slum Dwellers and limiting the multiplicity of Number of slum Dwellers.	Yes present legislation requires amendment	Once the Biometric survey is conducted there should not be resurveying of plot should not be allowed.	T-1	1. As regards generation of PAPs, there is now a policy formulated by the State Government as stated above, which ensures handing over and generation of PAPs. 2. As regards bio-metrics, the same has been answered above. The process of Auto – Annexure II and biometrics is being undertaken by the SRA already.

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4.	The statute and the ancillary rules and regulations do not go beyond recognition of the preferential rights of the landowner Preferential right is only a right of first refusal and does not confer any preference and/or advantage as sought to be alleged.	The procedure to be followed by a landowner to carry out slum rehabilitation is extremely cumbersome and does not bestow any advantage or incentivize a landowner to complete rehabilitation of slum dwellers on his land Upon the SRA identifying the eligible slum dwellers and certifying draft annexure II, the landowner is required to obtain 51% consent of the eligible slum dwellers, as identified by SRA and a general body resolution from the proposed society of the slum dwellers in this regard. Without such a consent the proposal cannot be accepted finally. A landowner's scheme is withheld, at the instance of certain unscrupulous elements with vested interests, due to alleged lack of consent from the slum	Circular 144 read with Circular 144A read with Section 13(1) of the said Act	The rule/regulation/condition to take consent of slum dwellers to redevelop for their benefit should be dispensed with in the case of landowners developing his own land. The said Act ought to be amended in so far as that on an application being made by the landowner to the SRA for sanctioning a scheme, the slum dwellers should not have any say as the expertise for ensuring a beneficial development for rehousing the slum dwellers is available with the SRA. Once the owner submits his application for development alongwith all annexures, the criteria for eligibility should be completed by SRA in a time bound period. Further, a thorough scrutiny should be carried out at the inception itself with respect to the title of the landowner alongwith consent of co-owners, so as ensure that there is no litigation when the proposal filed by the landowner is at an advance stage.	Yes		T-2	Obtaining consents is a requirement under the DCPR and the same has been recognized as a fundamental requirement by various judgments of this Hon'ble Court and the Hon'ble Supreme Court of India. The suggested measure of deletion of the requirement of consents requires legislative amendment.

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		dwellers, who themselves have negligent understanding of the process of slum redevelopment. Thus, after having invested significant sums, the landowner may be left in lurch as his proposal maybe rejected at the stage of LOI due to lack of consent.						
5.	Valuable property rights of such entities/individuals have been unreasonably and arbitrarily sought to be deprived by slum dwellers at the behest of entities with vested interest.	There are no provisions in the said Act to specifically address and/or protect the rights of a landowner with respect to his ownership of a slum encumbered land and/or his intent to redevelop such a land.	An Owner is defined under section 2(f) of the said Act Section 2(c-a) of the said Act defines a developer as an agency appointed by the Chief Executive officer (SRA) Section 2(e) of the said Act defines an occupier Section 2(h-a) defines slum lord.	To amend the said Act by introducing a distinct chapter with provisions, rules and regulations specifically dealing with the rights of landowners.	Yes.	A separate chapter ought to be introduced in the legislation to set out the rights of landowners under the said Act including the manner in which a landowner can commence redevelopment of his own land.	T-2	The provisions contained in the Act recognize the rights of the owners to carry out slum schemes and are sufficient. The same is also a subject matter of various judgments where the Hon'ble Bombay High Court has interpreted provisions of the Slum Act and set – out the rights and liabilities of owners of slum encroached lands.
6.	Multiple Litigations filed by parties with vested interest in schemes filed by Landowners	The scope of challenge to any act of statutory authorities in exercise of their powers under the said Act is wide, which promotes incessant litigation and further derails redevelopment proposals filed by landowners.		Frivolous litigation filed by parties with vested interests ought to be curbed in order to incentivize a landowner to redevelop his own land expeditiously and uphold the objects of the said Act The power to challenge any proposal for redevelopment filed by a landowner should be restricted in a manner that a proposal filed by a landowner can only be set aside for blatantly contravening the provisions of the said Act. The said Act ought to be lucid			T-2	A blanket prohibition from initiation of proceedings concerning lands owned by private owners may amount to violation of principles of natural justice. In any case, presently, while declaring the lands as SRA under Section 3C gives notice to the land owner and interest persons only. The hearing in that sense is restricted. .

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				enough to restrict parties from challenging proposals on frivolous grounds such as title disputes, technicalities, minor procedural faults or delays in filing proposals and the larger intent i.e. to redevelop slum encroached lands and rehabilitate slum dwellers ought to be prioritized. There should be a bar on private parties seeking to challenge on frivolous grounds a proposal filed by the landowner. There should be legal prohibition against any litigation to prevent the redevelopment.				
7.	Landowner's preferential right to develop his own property	120 days is not sufficient for landowners to file all annexures and particularly Annexure II. Landowners face vexatious objections from slum dwellers who are backed by 3rd party agencies to thwart development by landowners.	Section 13 of said Act	After a particular property is declared as slum under section 3C(1) of the said Act, SRA should call upon the landowner, by written communication, to file his proposal to redevelop the said property, as observed by this Hon'ble Court in ***Bishop John Rodrigues vs State of Maharashtra (2024 SCC Online Bom 1632)***			T-2	The said issue is already addressed above. The same is pending adjudication before the Hon'ble Supreme Court of India.
8.	Under the present statutory scheme, before slum dwellers vacate their respective hutments, the Developer is either required to provide transit accommodation or transit rent. Disputes arise on	The Societies / slum dwellers often demand higher rent / exorbitant amount of transit rent from the Developers. Moreover, these transit rents are often considered as alternative source of income and therefore,	Clause 4.2 of the Appendix-VIII of Regulation 33(10) of DCPR 2034.	This problem can be addressed by laying down certain guidelines authorizing SRA officials / Asst. Registrars of Societies, SRA to fix the quantum of transit rent.	Clause 4.2 of the Appendix-VIII of Regulation 33(10) of DCPR 2034 is required to be amended.	Clause 4.2 of the Appendix-VIII of Regulation 33(10) of DCPR 2034 shall be amended so as to authorize ARS, SRA to fix transit rent to be given to slum dwellers who shall be shifted out of the property for implementing		The said issue is addressed hereinabove. Circular 210 adequately covers the issue of non – payment of rent. As stated above, the SRA is considering fixing a base rent.

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	account of the quantum of transit accommodation rent which is to be decided between the proposed Society and the Developer as per clause 4.2 of the Appendix-VIII of Regulation 33(10) of DCPR 2034. These disputes between the Developer and the Society result into litigation that stymie the progress of the slum rehabilitation schemes.	slum Society are very persistent in demanding higher transit rents.				the S.R. Scheme. The proposed change in Clause 4.2 of the Appendix-VIII of Regulation 33(10) of DCPR 2034 can be considered to be made as follows: *"4.2 The eligible slum dwellers shall be shifted to temporary transit rent or on rent as may be decided by ARS, SRA after taking into account prevailing circumstances."*		
9.	Obstruction by persons having or claiming to have some rights in the land, which rights are lesser than ownership, or, not absolute, which may be in the nature of leasehold rights, tenancy rights etc., and such persons are not Occupiers. Such persons may have some right or may require to establish some rights, since they are not in occupation / possession of or on any part of the private land. Such persons	Such persons file Civil suits in the Civil Court and obtain restraining orders which hamper the progress of Slum Rehabilitation Schemes possibly with a view to cause their names to appear in Annexure – II or as an extortionary tactic to make a bonanza at tremendous inconvenience to Slum Rehabilitation Scheme, the other eligible slum dwellers and the landowner.	Section 2 (e) – definition of Occupier Section 2 (f) definition of Owner Section 42 of the Slum Act Section 149 of MRTP Act SRA circular No. 167 dated 30th December 2015.	Annexure – II must be finalized by the concerned authority in a timely manner. Some outer limit must be prescribed for finalisation. Section 42 must be strictly implemented. There must be Judicial clarity on this aspect by holding that persons only having monetary claims or seeking to raise monetary claims, but who are not in possession of any structure or any part of the land on which the Slum Redevelopment Scheme is to be implemented and who are not landowners, are prevented from bypassing the provisions of section 42 of the Slum Act and section 149 of the MRTP Act. This Hon'ble Court must hold and clarify that the Slum	No.		T-3	The SRA is in the process of introducing the system of auto – Annexure II by relying on biometrics. This will ensure that the list of slum dwellers is readily available. This will also ensure that the developer and the SRA is aware of all persons interested in the scheme. Any litigations filed by persons other than these recognized interested persons may accordingly be dealt with.

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	resort to litigation to stall the Redevelopment Scheme and / or to seek injunctive reliefs in respect of implementation of the Slum Rehabilitation Scheme.			Redevelopment Project in its entirety should go ahead and, if required, a certain portion of the area in the Freesale Component should be kept unencumbered as security for the Plaintiff if he succeeds in proving and establishing his monetary claim. Such an approach would hasten many Slum Redevelopment Projects which are languishing due to injunctive orders having been passed by the civil court.				
10.	Jurisdiction of Slum Rehabilitation Authority [SRA]	That Slum Rehabilitation Authority [In short '**SRA**'] is appointed as 'Special Planning Authority' only in respect of 'Slum Rehabilitation Area' declared u/s. 3C of the Slum Act, as provided u/s. 2(19)(b) of MR&TP Act. Further, once an area is declared as 'Slum Rehabilitation Area' u/s. 3C of the Slum Act, a substantial provision of the Slum Act, stands amended / modified *qua* such 'Slum Rehabilitation Area', as provided u/s. 3D of the Slum Act, thereby empowering SRA to exercise various powers under Sum Act [for example eviction (sec. 33), demolition (sec. 38),	Sec. 2(19) of MR&TP Act. Sec. 3C and 3D of the Slum Act.	It should be clarified that SRA is having jurisdiction only in respect of 'Slum Rehabilitation Area' declared u/s. 3C of the Slum Act and not otherwise.			T-9	The provisions in the MRTP, the Slum Act and the DCPR – 2034 are clear in this regard. The SRA was introduced as a planning and execution body for slums in Mumbai.

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		cancellation of appointment of Developer (sec. 13(2)) etc], thus, the legislative intent is also to appoint SRA as 'Special Planning Authority' only in respect of 'Slum Rehabilitation Area' and not otherwise. Thus, above provisions make it amply clear that prerequisite for SRA to claim as 'Special Panning Authority', is declaration of an area as 'Slum Rehabilitation Area' u/s. 3C of the Slum Act, and not otherwise. However, SRA as 'Special Panning Authority' is granting approvals also in 'Censused Area' and 'Slum Area', which are not declared as 'Slum Rehabilitation Area', which is in violation of Sec. 2(19) of the MR&TP Act r/w. Sec. 3C of the Slum Act. By claiming status of 'Special Planning Authority', SRA is also granted						

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		permissions in 'Censused Area' of MHADA Land and Corporation Land, however, the same is again contrary to Sec. 2(19) of the MR&TP Act r/w 3C of the Slum Act.						
11.	Cancellation of appointment of Developer [sec. 13(2) proceedings] and appointment of new Developer-	Sec. 13(2) of the Slum Act, empowers CEO–SRA to cancel appointment of the Developer, in event of delay or non-fulfilment of obligations under the Scheme. At times, it is also seen that Sec. 13(2) proceedings are initiated at the behest of rival Developer, by hijacking the Committee, with no actual default on part of the appointed Developer. It is observed that a rival / competing Developer influences / lures the slum dwellers and committee members, terminates the existing Developer and appoints himself. This create	Sec. 13(2) of the Slum Act	Sec. 13(2) of the Slum Act, should be more elaborate; Time limit, should be prescribed stage wise and in case of failure to abide by the same, without satisfactory reasons, proceedings u/sec. 13(2) of Slum Act, should be initiated and triggered *suo-moto* by SRA. Similarly, in case of default of obligation or any act or omission contrary to the S. R. Scheme, then also proceedings u/sec. 13(2) of Slum Act, should be initiated *suo-moto* by SRA. Once appointment of Developer is cancelled under 13(2) proceedings, then SRA should appoint some competent Developer by calling Tender and it should not be left to the Society, to avoid influence of rival Developer. In case of already S. R. Scheme sanctioned on MHADA Land and MCGM Land, if there is delay by a Developer in completing S. R. Project, the Developer's appointment be terminated u/sec.			T-9	Presently, the SRA is reviewing all schemes at each stage when the developer approaches the SRA for seeking permissions. In the event it is found by SRA that the scheme is inordinately delayed, the SRA has the power to initiate proceedings *suo – moto* under the Slum Act. The SRA is considering introducing a time frame within which the proposed project would be developed. The said time limit will be specified in the LOI itself. In the event of failure to comply with the time frame mentioned in the LOI depending on the scale of the project, the SRA will consider taking further steps against the developer.

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		s unhealthy competition and focus from rehabilitation shifts to commercialization of S. R. Projects.		13(2) of the Slum Act and redevelopment of S.R. Project may be proceeded by MCGM or MHADA, as the case may be. In the event S. R. Scheme is incomplete in a private land, the auction of project through transparent procedure be invited from interested developers (including planning authorities). This shall prevent illegal – trading and competing element at bay. It shall reduce the litigations before various forums, including the High Court. In the event of appointment of Developer is cancelled u/sec. 13(2) then such Developer, its Partners / Directors should be black listed from being appointed as Developer, in any future S. R. Projects.				
12.	In respect of commission of cognizable offences while implementing of the Scheme, matter are referred to A.C.B. – AGRC, contrary to Cr.P.C.	With regard to offences committed in S. R. Scheme, Complaint has to be firstly filed before ACB – AGRC and then pursuant to outcome of said Complaint, further course of action is decided in the matter. This is in blatant violation of criminal jurisprudence. Once cognizable offence is disclosed then there should be FIR registered at once.		To abolish ACB – AGRC / HPC as the same was in violation of Cr.P.C., 1973 and/or now B.N.S.S., 2023.			T-9	HPC-ACB is constituted by Hon'ble High Court in Shailesh Gandhi's Case, the Hon'ble High Court has given findings and reasonings for constituting HPC-ACB in para 16 of the said judgement. Since, the formation of HPC-ACB, this committee has been adjudicating various numbers of the complaints and various order passed by HPC-ACB. Some of the orders are challenged in Hon'ble Bombay High court and Apex Court, however, no court has raised any queries in respect of powers of HPC-ACB. As such there is no requirement of constituting any other authority, instead of HPC-ACB. It is important to note that various activist are lodging false and frivolous complaint against the officials of SRA which leads to

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		However, due to creation of ACB – AGRC, FIR/s are not registered despite commission of cognizable offence.						harassment of officials and it would be rather very difficult for every government official to discharge his duties independently, if everyone go on lodging false complaints. The HPC-ACB is an independent body. One of the invitee member is Additional Commissioner of Police, being expert in investigation. In view of aforesaid circumstances, functioning of HPC-ACB is within the parameter of Hon'ble High Court's Judgement in Shailesh Gandhi's case.
13.	Eviction of slum dwellers is vital for implementation of the Scheme and should be implemented on urgency basis.		Before passing of eviction Order they must be under obligation and SRA shall ensure – 22 (twenty-two) months of advance transit rent [+11 months thereafter post dated cheques] is paid to eligible slum dwellers [as provided in Circular No. 210 dtd. 01.08.2023 and 210A dtd. 23.02.2024 of SRA]; 11 (eleven) months of advance rent in case of non-eligible slum dwellers; compulsory survey of slum			T-9		This has been considered above.

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			structure, in case of non-eligible slum dweller; As far as possible to decide eligibility Application, prior to eviction. In case of transit accommodation, 02 (two) months prior structural audit of transit camp building should be done, through some Government approved / recognised Agency.					
14.	Despite prohibition on Sale / Transfer of Rehab Tenements for 10 years, the same is ineffective and there is rampant sale / transfer of Rehab Flats and the same is also on record of the Authorities, however, no adequate and effective steps are taken in this regard. Moreover, now the prohibition of 10 years, reduced to 5 years.	Sec. 3E of the Slum Act.	Prohibition of Sale / Purchase of Rehab Tenements should be strictly implemented. Though Orders are passed by this Hon'ble Court in the matter on time to time, however, no effective steps are taken in this regard. The restriction of transfer of tenements should be reversed back to 10 years, instead of 05 years and a survey of allottees and occupants of Rehab Buildings should be conducted every 3 years.			T-9		The same has been addressed above.

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15.	Developer unilaterally decides Building Plan / Layout, without consultation from Society, thus, Society / Members needs / requirements are not given due consideration.		Approval of the Building Plan / Layout, should be taken from the General Body of the Society, before filing it before SRA for approval.			T-9		The plans are sanctioned with the approval of the SRA. There is no require to get the plans sanctioned with the consent of the slum dwellers.
16.	Rehabilitation of Commercial Tenements are compromised, being in small number.		Relocation of 'Commercial Premises', should be as far as possible on ground floor, having equivalent locational advantage, as existing prior to demolition. Rehabilitation of 'Commercial Premises', should not be compromised for commercial gain of Developer. In case of large Commercial Premises [i.e. more than 225 sq. ft. carpet area], the slum dweller should be given preferential right to purchase additional area over and above 225 sq. Ft. at construction cost, which construction cost should be decided by SRA and not left to the discretion of the Developer. In this regard, at the time of appointment of the Developer itself, a			T-9		The same requires statutory amendment. As of now, the Commercial tenements are being given as per the provisions of the DCPR.

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			tripartite Agreement should be executed between Developer, Society and SRA, wherein, location of rehabilitation of 'Commercial Premises, transit rent amount and rate of purchasing additional area over 225 sq. ft. carpet area [upto exiting commercial premises area], should be recorded.					
17.	Rehab Buildings are not constructed in time and there is too much of delay. Slum Dwellers have to wait for years and in some scheme for more than 20 years, for their rehabilitation; The construction quality of the Rehab Buildings are very poor and in a period of 10 – 15 years, would require further redevelopment.		Quality of construction should be the responsibility of the Developer and same should be checked, tested and audited by team of at least 03 (three) officers of the S.R.A every 03 (three) months, who shall be personally responsible for any future defect. Further, it shall also be the responsibility of the architect / RCC, consultant, appointed for the Scheme. Any recommendation based on Report given by such Officers, should be immediately rectified within a reasonable time specified therein and till such rectification is done, no further permission should be given to the Developer. And in case of default,			T-9		As regards the maintenance of the building, the same is answered above.

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			Stop Work Notice should be issued immediately. Defect liability should be the essence of permissions issued for construction of the building for rehabilitation of the slum dwellers. Incase, of Rehab Building already completed, the same shall be audited by SRA and Developer be directed to take necessary steps/ measures, as per such audit,					
18.	It is noticed that in many S.R. Schemes, Fire Safety equipments are installed for name sake and the Occupation Certificates are granted by SRA without actual verification of factual position of Fire Safety measures. The issues like smooth and obstruction free access for Fire Engineer around Building are compromised. Fire NOC and OC are issued without		Fire Audit of Rehab Buildings to be carried periodically by CFO and an independent agency, essentially to evaluate following issues :- Installation of Fire Equipments, that too in working condition; Fire Engine movement in the Rehab Building, to ensure reach to fire affected site, incase of fire emergency, Compulsory implementation of Mock Drill/ Demonstration Programs to ensure that occupants are well versed and aware to deal			T-9		All permissions regarding fire safety are required to be complied with and insisted on.

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	subjective satisfaction. It is also noticed that in majority cases Fire Extinguishers and Equipments though installed, however, remain non – functional, thereby compromising with life and property of the occupants therein.		with the Fire incidents in such Buildings.					
19.	It is seen that the Corpus of Rs. 40,000/-[as on date provided] is inadequate for taking care of the maintenance of the Rehab Building. Moreover, Number of Floors of the Rehab Building should also be considered, because, more the height of the Building, more is the maintenance.	Clause No. 9 of Regulation No. 33(10) of DCPR, 2034.	Corpus Fund of Rs. 60,000/- per tenement for buildings upto 10 floors should be deposited by the Developer with SRA, which should be released in the account of the Society immediately upon O.C. of the building and for Buildings of above ten floors corpus fund should be Rs. 1,00,000/- per tenement.			T-9		The SRA requires depositing Rs. 40,000/- per tenement as maintenance cost. The SRA is considering increasing the costs.
20.	Maintenance of High Rise Building is very high, which is very difficult for poor slum dwellers.		Permission for High Rise Buildings should be avoided and instead of one High Rise Building, multiple small buildings may be constructed on the Plot.			T-9		The buildings are sanctioned after considering the planning conditions on site. Restricting the construction of buildings to a certain height may render the scheme unviable.

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21.	It is seen R.G. / Open Space are provided more in Sale Component. Moreover, R.G. / Open Space provided in Rehab Portion are scattered, thereby defeating the very purpose.		Provision for R.G./ Open Space in rehab and sale should be same as per minimum area prescribed in the DCPR and provision for such R.G/ Open Space, should be made at one place for maximum utilisation rather than the same being scattered on plot.			T-9		The RG areas are to be given as per the provisions of the DCPR 2034.
22.	Benefit of Fungible F.S.I [Compensatory F.S.I] [Regulation No. 31(3) of DCPR 2034], is taken for Sale Component and the benefit is not utilised and shared with Rehab Component.	Regulation No. 31(3) of DCPR, 2034.	If the developer is taking benefit of fungible FSI, same should be shared in equal proportion with Rehab portion.			T-9		The release of FSI and TDR is as per the provisions of the DCPR 2034. The utilization of the FSI and TDR is as specified under Regulation 33 (10) read with the other provisions of the DCPR.
23.	No Parking / adequate Parking provided in Rehab Building.	Though Regulation provides for Parking, however, the same is not provided in Rehab Building, thereby, forcing the slum dwellers to park their bike / car in access road to the Building and ultimately leading to congestion. In case of any emergency, evacuation will be impossible.		Adequate number of parking should be made for the rehab building of slum dwellers so that approach road to slum buildings are not congested, as most of the slum dwellers park their bikes / car / rickshaw / taxis on access road, due to non-providing of designated parking space, which leads to congestion to rehab buildings.			T-9	Parking spaces are provided as per the provisions of the DCPR.

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24.	Lease / Conveyance.	It is seen that after the Scheme is complete, the Developer do not take lease / conveyance in favour of the Society.		At the time demarcation of rehab and sale portion, lease/ conveyance should be executed in favour of slum Society, and in any case, before issuance of O.C. No O.C. should be issued before execution of lease in favour of slum society. Incase, the Developer becomes non-cooperative/ insolvent/ dissolved or for any other reason unable to grant lease or conveyance, then provisions for deemed Conveyance/ Lease be introduced.			T-9	The same has been addressed above.
25.	Maintenance of lift, Fire Fighting System etc.	Due to lack of maintenance of Lift, Fire Fighting System etc., the same are non-operative.		Tripartite Agreement should be executed between Society, Developer and the Service Provider of Lift, Fire Fighting System etc., under the supervision of SRA, so that Lift, Fire Fighting System etc. are operative. Rain water harvesting, solar panels for electrification of common area lights should be installed by the Developer.			T-9	The SRA requires all safety conditions are being complied with. These conditions are also required for obtaining the OC. Once the conditions are complied with and the building permissions are issued, the SRA has a limited role to play.
26.	Non-Approval of S. R. Scheme on lands reserved for Open Space / R.G. / P.G.	Contrary to reservation in Final D. P, approvals are granted by SRA.		RG/ PG reservation if on a plot should be implemented strictly. Slum Dwellers on R.G. / P.G. should be shifted from the Plot and rehabilitated in PTC tenement generate under DCR 33(11) schemes, within same ward/ adjacent ward or within 8 kilometers. Clearance and handing over of RG/ PG Plots for public purpose, should be responsibility of SRA and/or planning authority / implementing agency.			T-9	Kindly refer to response in Table 1 Point 1.

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27.	Lack of consultation before exercise of powers in the form of circulars and notifications.	The CEO – SRA enjoys wide powers to issue circulars under the Act. These circulars are sometimes knee-jerk reactions to certain issues and are often-times an overreach and much beyond the scope of the Act or the scheme which completely vitiates the working environment and changes the entire dynamics of redevelopment adversely affecting developers implementing the Schemes.	Section 3K of the Act.	Any circular issued by CEO, SRA should not be unilateral and should be issued after public consultation. Before issuance of circulars, notice for suggestions and objections from the general public should be issued, subsequent to which the proposed modification/ circular/ notification should be issued and implemented in such form on the basis of the suggestions received or in its original form as the case may be at the discretion of the CEO, SRA. The CEO, SRA should not be empowered to levy any additional charge, premium, fees, deposits, etc. that are not contemplated under the Act.	Yes, amendment of law by Legislature required.	For proposed solutions under (a) and (b): Amendment of the Act to include procedure for issuance of circulars and notification by the SRA.	T-7	The SRA being a planning body has experienced that sue to the diverse and complex nature of redevelopment involved, regulation of schemes through Circulars is the most effective way of implementation of the Slum Act.
28.	Significant delays in vacating sites for slum rehabilitation schemes due to handful of Slum dwellers derailing entire schemes.	The most common cause of any SR scheme being derailed is due to activism/ politicization by disgruntled few slum dwellers who are against development by either making baseless allegations before any forum which would lend its ear and non-vacation of their slum structure. This leads to a situation wherein developer provides transit rent to all slum dwellers and 95% of the slum population vacates their	Sections 33, 33A, 38, 3Z-1 of the Act. Regulation 33(10)(1.16) of DCPR 2034. Office order bearing Ref. No. Zo.Pu.Pra/Visesh kaksh/ Up. Zhil/43814 dated 3rd October 2023 issued by SRA.	Clause 1.16 under Regulation 33(10) already provides for procedure to be followed for slum dwellers who do not join the slum scheme willingly. Provisions of this regulation need to be applied diligently against slum dwellers who do not join the slum scheme willingly as well as are non-consenting and to slum dwellers who are non-co-operative to the implementation of SR Scheme, even after providing their consent. The idea is not to snatch away any benefit from the slum dweller but to make them reach a realization that the right is not an absolute right but one which is saddled with responsibilities which if not fulfilled could lead them to losing their right to receive the permanent alternate accommodation and transit rent.	Yes, amendment of law by Legislature required.	The Act and Reg. 33(10) under DCPR 2034 should be amended to bring in: a criterion of disqualification for such errant slum dweller where his/her right to permanent alternate tenement and transit rent should be extinguished permanently under orders passed by CEO, SRA or any such delegate. Exercise	T-7	The said aspect regarding payment of rents and vacating slum dwellers by resorting to Section 33 / 38 of the Slum Act has been dealt with in the Tables above.

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		structures and are demolished but a few miscreants hold the scheme to ransom by not vacating their structures and using the overburdened system to their advantage by frustrating th e demolition process for years on end. They do this with impunity with the knowledge that no matter what their actions, at the end of the day they would still be entitled to receive the permanent alternate accommodation under the Act no matter what. Presently, the application for eviction under Sections 33, 33A read with Sections 38 or 3Z-1 of the Slum Act are tedious. The procedure requires the assent of the Dy. Collector (SRA), CEO, (SRA), Asst./Sub Engineer (SRA) in some cases Legal Consultant (SRA). Apart from this, the Sr. Police inspector, the A.C.P, Zonal D.C.P. and D.C.P. (Admin) have		All notices for proceedings under Sections 33, 3-Z read with Section 38 of the Act should include proceedings under Section 33A as well. Order for demolition and eviction under Sections 33 and 38 of the Act would deem to include an order under Section 33A unless its specifically excluded in genuine cases. Furthermore, even without proceedings under Sections 33 and 38 of Act, standalone proceedings under Section 33A of the Slum Act should be initiated by the competent authority on basis of complaints of developers, architect, societies or even *suo moto* if the situation demands. Further the criteria for appeals under Section 35 of orders passed under Sections 33, 33A, 3Z-1 and 38 should be restricted to the following considerations: (i) Whether the slum dweller is eligible? (ii) Whether rent is paid or transit accommodation has been offered or allotted? Furthermore, the entire procedure for vacating the site must be revamped to ensure timely availability of land for the slum rehabilitation scheme. The following framework can be considered: Upon issuance of IOA and deposit of transit rent (as agreed with the 51% majority slum dwellers) for all members who are required to be vacated as per the phase program of the developer, a notice of eviction		of such power shall be made mandatory and not as a matter of discretion. Set out detailed Standard Operating procedure [as set out in the proposed measures] for adjudicating and deciding eviction proceedings. The general Slum Rehabilitation Scheme under Section 3B of the Act to be amended accordingly.		

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		to grant their approval for providing the SRA staff with police protection. Whilst considering applications under Section 33 and 38 of the Slum Act the authority deciding the issue ventures in issues qua validity of schemes, issuance of LoI etc., which are issues not germane for these proceedings. This entails into orders passed by these authorities which are beyond the scope and purview of enquiry under eviction proceedings.		should be immediately sent to members who are required to vacate. The notice must specify that failure to vacate will lead to forfeiture of right to permanent alternate accommodation and transit rent under Section 33A of Slum Act. If the slum dweller doesn't vacate the premises within 45 days of receipt of transit rent, he/she/they lose their eligibility to receive permanent alternate accommodation and transit rent. The burden should be shifted on any non-co-operative slum-dweller to approach the competent authority to resist the notice of eviction within 30 days of issuance of notice. The power to condone delay must be statutorily restricted to only 15 days after the 30-day period, and not thereafter. Any such proceeding filed by the slum dweller resisting the eviction notice should be decided in a time-bound manner, not exceeding 30 days. The state machinery for dealing with such complaints and for evicting slum-dwellers should be adequately staffed. Currently, as per office order bearing Ref. No. Zo.Pu.Pra/Visesh kaksh/ Up. Zhil/43814 dated 3rd October 2023, all powers of eviction under Sections 33 and 38 of the Slum Act are being entrusted to merely 2 officers for the entire city of Mumbai. Even at 100% efficiency				

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				this is a herculean task and hence it is imperative that all deputy collectors (competent authority) stationed under SRA would be empowered to take up eviction under Sections 33 and 38 of the Slum Act. Mere filing of appeal ought not to be treated as a stay on the eviction. The slum dwellers are at liberty even after eviction to obtain transit rent subject to them being declared as eligible. In any event the task of ensuring timely eviction is fairly within the domain of the SRA and the developers have no control over the same. In order to ensure timely eviction and clearance of site as per the phase program of the developer (on issuance of transit rent or provision of transit accommodation as the case may be), if the site as designated by the developer is not cleared within 60 days of the issuance of transit rent, the developers would be provided a credit note for all further transit rent expended by the developers without having a vacant site to enable them to commence construction. This credit note shall continue till the time the entire site as per the phase program is provided free of encroachment by the SRA. The credit note may be used by the developers to set off against premiums payable in the same or any other project or may be tradeable by them in the open market as credit certificates. This will ensure that the developer is not				

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				saddled with burgeoning transit rent costs without having a vacant site to work on due to no fault of theirs and increased efficiency from the SRA in clearance of the sites in a time bound manner.				
29.	Pending utilities and infrastructure costs burdening slum schemes.	Presently, in the case of electricity, when a Developer applies for a construction meter/ temporary meter for transit camp he is made to ensure that all dues of slum dwellers who are vacated are cleared and only then is a new meter issued for the development by the network provider. In the cases of water lines and mains lines from MCGM, dues of the slum dwellers are expected to be paid by the developer, though MCGM themselves have provided water connections to the slum dweller. When a regular water line is applied for, for the purpose of construction or temporary transit accommodation at such time pending	Reg 33(1)(1.13) of DCPR 2034.	The pending dues on non-payment by any slum dwellers on Government/MHADA/MCGM land should be considered as arrears in property taxes and the society formed subsequent to the rehabilitation of the slum dwellers, shall be liable to pay the same. In the alternative, every light bill /water bill issued is on the name of a slum dweller shall be cross verified with eligible slum dweller vide SRA's auto annexure system. The pending dues shall then be recovered from the slum dweller when rehabilitated in alternate accommodation by the MCGM and Electricity Network Provider. In the case of sewerage mains / pro rata charges the same ought to be recovered on Sale Occupation Certificate to not burden the Rehabilitation portion of the scheme. The sewerage mains ought to be provided to the Rehab Portion on humanitarian grounds. Under 1.13 of Reg. 33(10), with regards to other of pending dues such as assessment, compensation,		For the proposed measures from (a) to (e), DCPR 2034 should be amended to exempt recovery of such charges from the developers. The general Slum Rehabilitation Scheme under Section 3B of the Act to be amended accordingly.	T-7	This requires legislative amendment.

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		water dues are recovered prior to providing with water line and meter. Further MCGM also makes one recover the pro rata charges for water mains and sewerage mains for temporary permissions accorded to the building/structure. Clause 1.13 of Regulation 33(1) provides that pending due to government authority cannot be a reason to stop approval to the slum schemes. However, land owning authorities often insist on clearing dues before issuing Annexure-II. The developer is forced to clear these dues, which incentivizes those slum dwellers who do not pay their dues to authorities. Despite there being a clear stipulation that arrears of past dues for utilities such as water, electricity and sewerage should not be an impediment to provision of services for a slum rehabilitation		occupational charges, non-agricultural tax/dues etc. pending with public authorities such as State Govt, MHADA, and/or MCGM shall be dealt with separately and not be linked to grant of approval or building permission to the slum rehabilitation projects and recovered from slum dwellers after re-accommodation. The slum schemes should be treated at par with the Dharavi Slum redevelopment where no such charges are foisted unto the developers.				

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		scheme, the same is not followed by utility agencies on the ground.						
30.	Land Acquisition under the Act.	When a developer intends to implement a slum scheme on public land, the developer is made to pay 25% of land rate as per ASR to the land-owning authority as land premium for development as per clause 1.11 of regulation 33(10) of DCPR 2034. If the land is privately owned and if the owner is not traceable or not wanting to develop it himself, it appears to the State Government that, in order to enable SRA to execute any work of improvement or to redevelop any slum area or any structure in such area, it is necessary that such area, or any land within adjoining or surrounded by any	Sections 14 and 17 of the Act. Reg. 33(10), DCPR 2034.	Provisions of Section 17 of Act and Regulations 33(10) of DCPR 2034 to be amended: The compensation payable to landowners under Section 17 of the Slum Act needs to be amended to commensurate with the premium payable to MCGM/MHADA when schemes are implemented on their project i.e. 25% of land rate as per ASR; In all slum schemes where the owner of the land has either not come forward for development of the slum himself or through his designate or in cases where owner developer's scheme has been recorded u/s 13(2) of the Slum Act, a notice to be issued by the CEO, SRA for informing the owners about the deemed acquisition of their property for sake of slum rehabilitation and informing them that they would be entitled to receive 25% of land rate as per ASR in the same schedule of payment as is made applicable for the land premium in case of development of slums on public land. This letter of the CEO, SRA	Yes, amendment of law by Legislature required.	Provisions and regulations under the Act and DCPR 2034 to be amended as provided in the proposed measures. The general Slum Rehabilitation Scheme under Section 3B of the Act to be amended accordingly.	T-7	The said issue has been addressed hereinabove.

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		such area should be acquired, the State Government may acquire the land by publishing in the Official Gazette, a notice to the effect that the State Government has decided to acquire the land in pursuance of Section 14 of the Slum Act. The compensation to be paid to the landowner is decided as per Section 17 of the Slum Act which mandates payment of 60 months' average rental income from such plot as the fair value of consideration for such a plot. This amount is pittance and aggregates to thousands or a few lakh of rupees. Subsequent to acquisition, when developer puts up a scheme thereon, the developer is promptly charged 25% of land rate as per ASR. The government doesn't do anything after acquisition thereof to add value to the proposition. Hence on the one hand, landowner gets only thousands or a		would be treated as automatic NOC for development of the SR scheme. On payment of the entire land premium to the owners or SRA account if owners bank details are not available, the land would automatically vest with the SRA without any action/inaction by the landowners and the SRA shall promptly lease it to the society of slum dwellers/sale purchasers as the case may be without charging any additional amount/premium for the same. No separate levy shall be made on the developer post-acquisition of private land by SRA from private owners under the pretext that SRA is the owner of land.				

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		few lakh of rupees, the same land in the very next breath is given to developers by charging crores of rupees as premium. This amounts to double levy where the Developer is made to pay acquisition value as well as 25% ASR to SRA. In such a scenario there is hesitation on part of landowners to allow acquisition as they feel that they are not getting fair value of their land even if they never actually intend to develop it themselves.						
31.	Eviction and rehabilitation of religious structures.	Every slum scheme has multiple religious' structures therein. As per Government of Maharashtra GR there is a procedure for demolition and construction of religious structures. As per the said GR, the plans for the religious structure need to be approved from SRA which then sends the file to Urban Development Department ("**UDD**") for approval. UDD sends the file to home department which percolates it down to	Maharashtra GR of Home Department bearing No. CTM-2009/P.K.601/V.SH.9 dated 23rd November 2009	Religious structures within a SR scheme should not be treated in the same manner as religious structures outside slum schemes. Religious structures within a SR scheme should be given the same treatment as commercial structures within a SR scheme. Religious structures within a SR scheme are illegal (constructed without any permission) but protected structures and regulation 33(10) of DCPR 2034 along with the provisions under the Act already provides for provision of permanent alternate accommodation in lieu of the same. Therefore, permission from UD/Home for mere shifting of a religious structure within a SR scheme should not be imposed. Furthermore, religious structures are large in size, exceeding 225/300	Issuance of Government Resolution in supersession to Maharashtra GR of Home Department bearing No. CTM-2009/P.K.601/V.SH.9 dated 23rd November 2009 by the Home Department to exclude religious structures in an SR Scheme from the ambit of the said GR and in consistency with the Act and the DCPR 2034 and to treat religious structure within the slum scheme as any other structure.	The general Slum Rehabilitation Scheme under Section 3B of the Act should be amended to include the provisions for demolition and rehabilitation in respect of religious structures.	T-7	This will require legislative amendment.

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		Commissioner of Police office for its approval. The commissioner of police before giving the approval takes a report from the traffic department and the local police station. On receipt of approval from them, the police commissioner indicates his assent/ disapproval to the Home department which further intimates the UDD. Finally, UDD issues approval for construction of religious structure. This process is a cumbersome and time-consuming process and takes about 6 months to 1 year. Many a times before the UDD approval is received, the planning of the proposed religious structure is changed due to evolving ground situation and then the entire process needs to be repeated. All religious structures are being developed as per Regulation 59 of the DCPR 2034 and are defined as 'Assembly		square feet and hence for ease of implementation and for practical reasons, the entire existing area of the religious structure should be treated as rehab component.				

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		Buildings' as per regulation 17(a). Further under Appendix III of DCPR 2034, the NOC from the Police Commissioner 'For Construction of Religious Buildings' is proposed.						
32.	Parity between the Slum Schemes.	There is a difference in recognition of slum dwellers that are part of the slums at Dharavi compared to slum in other parts of Mumbai. Under Regulation 33(10)(A) of DCPR 2034, certain different regulations are applicable to the slum rehabilitation scheme within Dharavi Notified Area for Dharavi Redevelopment Project. However, there is no intelligible differentia is treating the slums or slum dwellers at a different footing. Under the Slum Act, all the slums and slum dwellers are treated at par and provisions of the Slum Act are applicable to all the slums, regardless of its location. Living conditions in all slums	Regulation 33(10)(A) of DCPR 2034.	Regulations and provisions amended and all concessions, relaxations, benefits granted from time to time vide notifications/circulars to make redevelopment feasible for Dharavi Notified Area under DCPR 2034, should be applicable and made available to all SR Schemes under the Slum Act.	For the proposed measures to be implemented, DCPR 2034 should be amended to include all concessions, relaxations, benefits granted for Dharavi Notified Area for SR Schemes under the Slum Act. Alternatively, Regulations 33(10) and 33(10)(A) of DCPR 2034 should be merged and identical regulations should be applicable to all slum schemes. The general Slum Rehabilitation Scheme under Section 3B of the Act to be amended accordingly.		T-7	SRA is under consideration of the same.

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		are similar to Dharavi and hence, selective push for development of Dharavi is unfair for the rest of the slums of Mumbai.						
33.	Preferential right to develop and acquisition of land	In case of privately owned lands, the amendment of the Slum Act in April 2018, a timeline of 120 days has been put for the landowners to come forward for redevelopment. However, there is no requirement for SRA to issue a notice to the landowners asking the landowner whether the landowner intends to exercise their preferential rights to redevelop the land.	Section 13(1) and Section 14 of the Slum Act	The SRA must issue a notice within a specified timeline to the landowner asking the landowner whether the landowner intends to exercise their preferential rights to redevelop the land as per the law laid down in the judgement of this Hon'ble Court in *Indian Cork Mills Pvt Ltd vs State of Maharashtra & Ors in Writ Petition No.658 of 2017* and also in *Bishop John Rodrigues vs State of Maharashtra & Ors in Writ Petition No.1212 of 2022*. In cases where the landowners do not exercise their preferential rights after the receipt of the notice from SRA under Section 13(1), the SRA ought to initiate acquisition procedure under Section 14 of Slum Act. Subsequently, there ought to be a specified timeline for completion of acquisition proceeding of such land as well.	Yes. Proposed Measure / Solution requires amendment of law by Legislature. Section 13(1)	Section 13(1) must include issuance of notice to the landowner to enable the landowner to exercise their preferential right to develop the land. Pursuant thereto, the landowner may within 120 days from receipt of such notice specify willingness to develop the land themselves. Section 13(1) must also specify to the landowner that incase the landowner does not exercise his preferential right to develop the land withing the	T-7	This issue has been addressed in the Tables above.

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						stipulated time, acquisition procedure under Section 14 ought to be be initiated.		
34.	NOC of central government	Regulation 33(10) of the DCPR 2034, provides that proposals for slum rehabilitation schemes on lands owned by the Central Government shall not be accepted unless NOC for the scheme is obtained from the Central Government. There are several lands in Mumbai which are owned by the authorities under the aegis of the Central Government which are fully encroached and such areas are declared slums / slum rehabilitation area under the Slums Act. However, there has been no progress in issuance of consent by the Central Government for slum rehabilitation	Regulation 33(10) VI 1.11 of the DCPR 2034	It may be considered to formulate a policy for procurement of consent of Central Government and/or acquisition of lands owned by the Central Government.	----------	A comprehensive policy must be formulated between the State Government and the Central Government to enable the development of slum lands owned by Central Government and acquisition of such lands.	T-7	This issue has been addressed in the Tables above.

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		schemes on lands owned by it/its bodies. The lack of clarity on the requirements in this regard has stalled many slum schemes.						
35.	Slums on Adivasi land	On certain occasions, developers have encountered difficulties in the introduction of slum lands, part of which are owned by Adivasi and the same is also governed by section 36A of the Maharashtra Land Revenue Code, 1966. The permission of the Collector for implementation of slum rehabilitation scheme on land owned by Adivasis is required. There is no policy or provision which governs the basis on which this permission may be issued by the Collector for implementation of slum rehabilitation scheme on land	Section 36A of the Maharashtra Land Revenue Code, 1966.	It is suggested that the State Government may issue directives basis which the aforesaid permission can be issued.	----------	The State Government must formulate a policy for dealing with Adivasi land which are declared as slum area / slum rehabilitation area.	T-7	This requires legislative amendment.

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		owned by Adivasis. Usually, this permission is not issued or takes substantial time and leads to such slum schemes being stalled.						
36.	Ease of doing business/timelines for building permissions	Currently, the procedure of obtaining permissions for obtaining Letter of Intent, Intimation of Approvals, commencement certificates etc, involves obtaining NOCs from various departments. Though there is an Ease of Doing Business – Manual of Procedure for Slum Rehabilitation dated 09.03.2017 issued by SRA, the same is not being implemented in the manner envisaged.	Manual of Procedure for Slum Rehabilitation dated 09.03.2017 issued by SRA. Sub-Regulation 2.2 of 33 (10) of DCPR	It may be considered to establish a procedure of a single window clearance to apply and process applications for obtaining approval for slum rehabilitation scheme. Sub-Regulation 2.2 of 33 (10) of DCPR provides that the approval to the project shall be given by SRA within a period of 60(sixty) days from the date of submission of all relevant documents and in failure in doing so, the said approval shall be deemed to have been granted. This provision is not extended for subsequent permissions/approvals as is available under Section 45 of the Maharashtra Regional Town Planning Act, 1966 ("**MRTP**").	Manual of Procedure for Slum Rehabilitation dated 09.03.2017 issued by SRA ought to be implemented. Sub-Regulation 2.2 of 33(10) of DCPR should Cover / extended to subsequent permissions.	---------	T-7	The SRA will consider introducing timelines for giving approvals to proposals which are pending / received.

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37.	Registration of Co-operative housing Societies of Slum Dwellers	One of the other issue which is usually faced by the owners/developers whilst dealing with the slum dwellers is that there is no registered cooperative housing society. The decisions are in effect taken by the Chief Promotor and other promoters of the proposed society	Regulation 33 (10) of DCPR	To bring transparency and accountability, it may be considered that the proposed society is registered under the Maharashtra Co-operative Societies Act, 1960 prior to selection of the developer.	Under Regulation 33 (10) of DCPR it may introduced that the incorporated society is registered under the Maharashtra Co-operative Societies Act, 1960 subject to the final eligibility list/Annexure II	----------	T-7	This issue has been addressed above.
38.	Premium payable on change in directorship of the selected developer	As per the circular no.19 issued by SRA, the developer is compelled to deposit 5% of land cost of sale plot area i.e. approximately 50% of the net scheme area calculated as per ready reckoner rates in case there is even a single change in directorship of the developer or change in partner or change of developer	Circular No.119 issued by SRA	Whilst requirement of permission maybe reasonable for change of a developer, but the premium imposed is exorbitant. Such an imposition of cost is without any reasonable basis. Hence, it can be considered that such an imposition be rationalised.	Circular No.19 issued by SRA be amended to clarify that legitimate cases such as a change of director of developer or death of a partner would not be construed as a transfer. The premium ought to be reduced for transfer.	----------	T-7	This issue has been addressed above.
39.	Handing over title of slum land	Till date, to the best of our knowledge, there has not been lease of the land executed in favour of the cooperative housing societies of rehabilitation buildings and sale buildings, after completion of slum redevelopment.	Regulation 33 (10) of DCPR	The complete grant of title ought to be completed through SRA and developer.	Regulation 33 (10) of DCPR ought to include a procedure for transfer of title of the rehabilitation component by way of long term lease and in a time bound manner.	----------	T-7	After the completion of the slum scheme, the land is leased in favour of the Co – operative Housing Society of Slum dwellers for a period of 30 years.

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40.	Ready Reckoner rates of slum lands	The stamp duty rates levied for registration of a development agreement between the society and the developer even in slum projects are kept at the same rates as is done in other redevelopments. The valuation of a slum land ought to be rationalized in light of the fact of it being a slum land. Projects on slum lands are relatively lesser marketable than projects on other lands. Hence, levying such high stamp duty rates is not reasonable. Infact, this is one of the main reasons for there being no registered development agreement between a society and a developer for a project under a slum rehabilitation scheme.	Maharashtra Stamp Act, 1958	A relaxation of stamp duty rates for all such agreements with the slum dwellers, development agreements, and other deeds and writings that are required to be executed would encourage registration of such documents.	---------	The State of Maharashtra is required to formulate a policy for relaxation of stamp duty rates for all such agreements with the slum dwellers, development agreements, and other deeds and writings that are required to be executed.	T-7	The SRA is bound by the provisions of the Maharashtra Stamp Act. All the provisions applicable are being followed.
41.	Relaxations granted under regulation 33(10)(A)	Regulation 33(10)A of the DCPR 2034, offers various relaxations specially in payments of premium/charges payable by the developer like a lower rate of infrastructure charges. Infact, there is no development charges levied for redevelopment	Regulation 33(10)A	Relaxations similar to as given under Regulation 33(10)A, are ought to be granted to all other slum projects as well.	Yes. Proposed Measure / Solution requires amendment of law by Legislature. Regulation 33(10)	Regulation 33(10) should include the relaxations provided under Regulation 33(10)A.	T-7	This has been answered above. It is reiterated that Dharavi is being dealt with under a separate Regulation since the same suffers from various planning constraints.

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		project under Regulation 33(10)A.						
42.	Interest on deferement of payments of Premium for fungible compensatory FSI	SRA vide its Circular No.184 dated 25th January 2017 allowed the facility of deferment in payment of premium for fungible FSI under Regulation 35(4). However, vide Circular No.186 dated 3rd April 2018, SRA decided to levy simple interest at **12% per annum** from the end of 30 days from the date of issue of demand note by SRA on balance instalments. This caused a lot of financial hardship on the developers and threatened viability of slum rehabilitation scheme. Considering the aforesaid, SRA vide its Circular dated 6th August	SRA vide its Circular No.184 dated 25th January 2017 Circular No.186 dated 3rd April 2018 Circular dated 6th August 2019 Circular No.206 dated 10th October 2022	Circular No.206 dated 10th October 2022 is ought to be amended/recalled, to ensure that the slum rehabilitation schemes progress without any imposition of heavy interest on developers. Alternatively, the rate of interest ought to be reduced.	Circular No.206 dated 10th October 2022 can be amended/recalled.	------	T-7	As per Circular 220 dated July 2, 2024, the premium for fungible FSI has been reduced to 8.5%. This is consistent with the BMC's circular dated 17.09.2019 on premium for deferment.

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		2019 provided that interest charges on deferred payments shall not be charged provided time schedule as per policy in force is adhered. This circular remained in force until the Circular No.206 dated 10th October 2022 came into force wherein the interest on deferred payment was reintroduced. The reintroduction of interest on deferred payment has once again adversely affected the viability of slum rehabilitation scheme.						
43.	Concurrence of plans for development of MCGM Reservations	Under Section 2(19) of the MRTP Act, SRA is the planning authority for all slum rehabilitation schemes. Accordingly, SRA processes and sanctions all plans with respect to the slum rehabilitation scheme including the plans for development of MCGM reservations.	Section 2(19) of the MRTP Act	It is therefore suggested that once the SRA sanctions/approves the plans, SRA ought not to be seek further concurrence of MCGM and allow the development as per the plans sanctioned by MCGM.	This could be cured by way of a clarificatory notification by the Government of Maharashtra.	---------	T-7	Since the reservation is made in favour of MCGM, the SRA seeks sanction from the MCGM prior to approval of any plan.

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		Despite the same SRA requires concurrence of MCGM on such plans which slows down and delays the implementation of slum rehabilitation scheme.						
44.	Assistance by SRA for funding of Slum projects	Usually, the developers default in completing a slum scheme due to lack of funding. The developers often face difficulties in raising finance for the projects implemented on slum lands. This is primarily because such mortgages are difficult to enforce in a default situation by the Developer, until issuance of the Government Resolution dated 25th May, 2022 (popularly known as Amnesty Scheme). Even if such mortgage was enforced and the lender appoints a new developer, until SRA recognizes and	-------	The Government Resolution dated 25th May, 2022 permits the financial institutions who have financed the project, to take over the slum redevelopment project and also implement the same through its own appointee/new developer. It exempts the fresh requirement of slum dwellers consents and also payment of 5% premium for transfer of developer. The Government Resolution dated 25th May, 2022 as understood under the Public Notice date 24th July, 2023 was for a limited time period. This ought to be extended and made a permanent measure. This will protect all stakeholders in the slum project and enable stalled schemes (due to financial default of the developer) to be implemented smoothly.	No.	The Amnesty Scheme ought to be extended	T-7	In addition to the Amnesty Scheme, the SRA is floating tenders for schemes which have been stalled. This measure will address the issue specified.

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		sanctions LOI in favour of the new developer and the slum dwellers recognize such new developer, the same is not effective. Since the developer is usually not the title holder of the land in slum schemes, it is difficult to procure finance from banks/financial institutions for slum schemes. Banks/financial institutions usually provide finance to the developer mainly on the basis of the financials of the developer and not on the basis of the slum/property value.						
45.	Updating of Register of Photo Passes	After the eligibility of an occupant is decided in accordance with Section 3X read with Section 3Y(1) of the Slum Act, the Government is required to maintain a register of photo passes under Section 3Y(5). However, it appears that the register of photo passes are not updated.	Section 3X read with Section 3Y(1) of the Slum Act	There ought to be a mechanism set-up under the Slum Act for updation of photo passes.	No. Section 3Y(1)	Rules and Regulations ought to be issued to introduce a procedure for updation of photo passes.	T-7	The SRA has issued a list of documents which can be used to decide eligibility. Photopass need not be updated.

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46.	Currently, the procedure for obtaining heirship certificate is laid down under Circular No.152 dated 5th June 2015. However, the same is time consuming as there is no time period given under which the heirship certificate is to be processed by the competent authority which leads to inefficiencies. In fact, in most cases, the developer has to step in to assist the slum dwellers to have their heirship certificate Obtained.	Circular No.152 dated 5th June 2015	There ought to be a time frame of one month within which the heirship certificate should be processed by the competent authority	Circular No.152 dated 5th June 2015	------		T-7	The SRA will consider imposing a timeline of 30 days.
47.	Privatization of public land	The slum rehabilitation scheme has emerged as an effective means of turning over public land into private hands. One of the main reasons that developers find slum rehabilitation projects attractive is because slum land is made available at 25% of its price (which goes to the government as revenue). Although this is often justified as a welfare measure for slum dwellers, this gift of public land		Land owned by public authorities is a public good and *must not be seen* as a monetizable resource by the authority, or private property for squatters, or a source of profits for developers. These parcels must remain in the shared ownership of all residents, non-tradable in the marketplace, and used exclusively for what is determined to be in the highest public interest. Details of such public land be placed on the website. **Land ownership:** For redevelopment schemes for both these alternatives the 'slum areas' or low-income housing areas will remain under the ownership of the public authority / a Community	Amendment to the Slum Act, DCPR 33(10)		T-6	This will require statutory amendment.

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		transforms all the stakeholders into speculators – with the government eyeing a share in the form of revenue, slum dwellers eyeing larger 'free' tenements that they can later sell on the market (realizing the full value of the land), and the largest beneficiaries being the developers eyeing bigger profits – and thereby creating ample opportunities for rent-seeking by all involved. The result is that the city loses valuable public land, and the possibility of keeping land permanently off the market for low-income housing or other public uses.		Land Reserve (CLR) exclusively for the purpose of low-income housing. If the slum is on private land, the ownership will be transferred to the public authority / CLR in lieu of TDR compensation to the landowner, indexed to the value of land. **Resale of rehabilitation units:** Since the land will remain in public ownership / CLR in perpetuity for the purpose of low-income housing, the price of housing units in these areas will be disconnected from land prices, and be assessed based on prevailing construction rates and the age of the building. The owner of this unit will only be allowed to sell the unit for the assessed price to the landowner, i.e. the public authority / CLR entrusted with managing its use. Vacant units in possession of the public authority / CLR may be sold (at construction cost) or given on leave and license to other low-income families. **Rehabilitation by developers or voluntary organisations:** If redevelopment is undertaken through a developer or NGO or Society, the master plan incorporating all specified amenities will be approved by the SRA and the entire cost of development will be financed by the public authority. If additional units are constructed, subject to density limits, these will be capped at 50 sq.m to create additional affordable housing stock for the city, and purchased from the developer by the SRA or MHADA.				

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48.	PAP projects in hazardous locations, poor planning of PAP townships	The sites selected for PAP projects are not based on planning considerations such as suitability of sites, availability of infrastructure and amenities in the location, or employment opportunities – but by a chance combination of factors including the availability of vacant land in low-price areas, incentives for landowners and developers, and TDR market dynamics. Consequently, many of these "PAP townships" have emerged in wards that have a high concentration of polluting industries and already some of the largest percentage of slum households. The case of Mahul PAP colony is instructive in this regard, and the Bombay High Court has itself issued orders highlighting the unsuitability of the site for rehabilitation. The TDR incentives generated from these projects seem to have become the profit-	DCPR 33(10) subsection 3.11, World Bank Operation Directive 4.30	**Resettlement Policy:** For slum areas where in-situ rehabilitation cannot be undertaken due to (a) sites being in uninhabitable areas (proximity to hazardous industries, on hazardous zones, high tension lines, No Development Zones, etc) or (b) on sites for development of essential public infrastructure, the government must prepare a resettlement policy based on the World Bank's Operational Directive 4.30 that provides guidelines as to how the rehabilitation process ought to be defined, planned and managed. Under this policy, settlement must be conceived as "development programs" integrated with project planning and included in the costs and benefits of the project. To quote from the Directive, "the full costs of resettlement should be identified and included in the total cost of the main investment project, regardless of financing source. The costs of resettlement should also be treated as a charge against the economic benefits of the investment project that causes the relocation." This policy must be binding on all agencies that undertake infrastructure projects in Mumbai. **Resettlement sites:** The resettlement site must be located either within the same ward or within 2 km of the slum area being cleared. The plan for resettlement must be prepared by the project implementation authority (in case of infrastructure projects) as specified above, or by the planning	Amendment to DCPR 33(10) subsection 3.11, need for a PAP policy on the lines. Large part of this can also be done through Notification / G.R.		T-6	The issue regarding the PAP policy has been addressed above.

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		making end rather than the means for producing housing for slum dwellers. Of the approximately 8.1 million square meters of slum TDR generated in Mumbai, the ME, MW and L wards have generated 71% of slum TDR – predominantly through PAP projects. The incentive-driven PAP scheme has resulted in a higher concentration and densification of the city's poor in depressed areas of the city. Mumbai has different 'planning authorities' with overlapping functions, and plan specific parts of the city as their own little islands, and carry out their own development projects – often disregarding, sometimes competing with each other. When infrastructure projects are being planned, rehabilitation is often not a part of project planning and not included as a part of the costs and benefits		authority in case of uninhabitable areas. **Information on existing PAP tenements:** For the existing PAP tenements, all planning / development authorities must submit data on (a) the number of tenements built and allocated thus far, (b) vacant tenements in their possession, (c) the location of the tenements, (d) whether the buildings / locations are fit / unfit for relocation and rehabilitation (e) the condition of the tenements (usable / unusable / usable after repairs), (f) the number of tenements required by each authority for its various projects, etc. This information must be made available in publicly accessible form on the BMC's website.				

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		of the project – with the exception of World Bank funded projects that made this a condition for its loans. Each authority assumes that some other authority is responsible for rehabilitation.						
49.	Quality of Housing - It is observed that when the slum dwellers eventually get the redeveloped houses, they fail to meet the standards of adequate housing, which is also provided by the UN Human Rights Council, namely of affordability, security of tenure, accessibility , habitability, provision of infrastructure, amenities and services, location.	While the SRA Act provides for 'free housing' for the slum dwellers upon redevelopment, there are no enforceable and effective provisions and measures in place to ensure that the housing provided is of good or adequate quality. While housing is given free, the maintenance charges are not affordable. It is found that in recent schemes where the number of floors exceeds ten and often even twenty, the costs of elevator, lifting water are very high and exceed the earning capacity of the dwellers. These costs are only inadequately offset by the interest on the maintenance fund	Government Resolution dated 04.03.2020 by way of which a grant in aid has been sanctioned to MHADA to provide basic amenities to the urban poor in the Mumbai city and suburbs especially in the slum areas. Government Resolution of 27-04-2006 lays down the Integrated Housing & Slum Development Programme (IHSDP) which provides for basic and social amenities. Circular No. 122 dated 08.03.2011 which provides for installing lifts from companies; obligation of the developer to install fire-fighting system, and the entire cost to be borne				T-6	The construction of the rehabilitation tenements is being done in accordance with the provision of DCPR 2034. Further, the SRA will consider appointing an expert body to consider the aspect of tenement density.

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		given by the developers and held by SRA for co-operative societies of dwellers. While SR buildings above 7 floors have elevators, and in theory houses on lower floors are allotted to elderly and disabled, however in actuality this is often not done leading to accessibility issues. Lifts are not large enough to accommodate vendor wares. Construction quality, and amenities in SR buildings have deteriorated over the years, and several older buildings are in dire need of maintenance and repairs. Planning of SR buildings often ignores planning principles and building standards are diluted to enhance the levels of profit in scheme; adequate light and ventilation in homes and in corridors is a concern in several buildings; lack of open spaces; community spaces and social	by the Developer. Circular No. 193 dated 11.08.2020 which provides for payment of maintenance deposit as per clause 9.1 of the Regulation 33(10) of DCPR 2034. Circular No. 191 dated 26.02.2020 which is regarding the Quality Control Cell in the Slum Rehabilitation Authority and provides for periodic visit to the construction site.					

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		infrastructure is converted to small rooms, making them unviable for the requisite purposes. Infrastructure floor is set very low for SR schemes, and does not consider the needs of slum dwellers engaged in variety of precarious self-employments. Slums double as home and work spaces, and the outside space can be used for work as well. Closed SR tenements restrict the use of outside space, and makes storing of vending and production materials as a potential fire hazard. People often get displaced from their livelihoods, while getting a new house						
50.	Over-reliance on developers which leads to FSI and TDR alone to play a bigger role in restructuring the city for providing housing to slum dwellers making the whole process profit centric	Withdrawal of the state from the responsibility of rehabilitating slum dwellers, and from providing housing to those living in slums		State has to perform a more active, committed role in inclusive city planning. State needs to consider the entire built environment while planning so that infrastructure, amenities, residences and livelihood can all be thought of as essential to housing and housing is not planned in isolation.			T-6	

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				State needs to be held accountable for the living conditions of those who have been resettled. State has to re-image the land occupied by the slum or buildings in need of redevelopment as not less than "best use". Instead, the policy needs to be driven towards giving the inhabitants more choices.				
51.	Arbitrary use of laws and powers in clearance of slums.	The Act lays down a procedure for eviction involving serving individual notices and providing residents with sufficient time to prove their eligibility. However, authorities often violate the provisions laid down and arbitrarily evict people causing extreme distress. (cases of Ambujwadi, Jai Bhim Nagar, Panchsheel Nagar) furthermore many evictions are now happening during the monsoon period of prohibition.	Section 3Z-1 and 2, Chapter 1	Procedure for conducting any eviction of slums by any authority should be preceded by: i) a survey of all residents; ii) individual notices to all residents; iii) preparation of annexure-2 based on the survey; iv) sufficient appeal time before eviction; v) rehabilitation before eviction; vi) appeal process after eviction as well; vii) no evictions during monsoon periods as per SC order; viii) No eviction till eligibility issue and pendency of appeals. Officers using arbitrary power to evict should be prosecuted under criminal charges as the people rendered homeless suffer tremendous violence due to homelessness,			T-6	The process of eviction is being undertaken in compliance with the procedures set out under the Slum Act. As regards the evictions under Section 33 and 38 and payment of rents, the same has been addressed above.

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52.	Lack of Resettlement and Redevelopment tenements	Infrastructural development in the city constantly raises the demand to resettle people displaced due to projects. The MCGM region has some R&R colonies where people are resettled but these fall far short of the demand for resettlement. Furthermore, many of these colonies have been created in areas which are unfit for human habitation. Therefore, many infrastructure projects are stalled or people are displaced without any rehabilitation.		MCGM should develop tenements for rehabilitation on its own vacant land which can be used to rehabilitate the people affected by different projects of MCGM.			T-6	Schemes such as cluster redevelopment are being considered to be introduced by the SRA. Further, provisions such as Regulation 3.11 of 33 (10) exists for PAPs.
53.	Developers delay the construction of the rehabilitation component while only focusing on the sale component.	Developers are more interested in the profits they will be earning from the sale of the sale component rather than the Rehabilitation of the slum dwellers. Construction of rehab buildings are commenced and then stopped midway and instead construction of sale buildings are commenced. After a couple of years, Developers usually even stop giving the slum	33(10) VII 2.6 DCPR, 2034 33(10) VIII DCPR, 2034 Circular No. 210- dated 01.08.2023 Circular No.190- dated 16.01.2020	SRA should effectively implement the existing regulation that mandates simultaneous construction of first the rehabilitation component and then the sale component.			T-6	The permissions of sale building are dependent on completion of the rehabilitation buildings. Till such time the rehabilitation buildings are not complete, permissions for sale are not fully granted. The CC for sale building is issued in the proportion to the rehabilitation building as specified under the DCPR 2034.

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		dwellers the promised transit rent, making it easier for them to delay the construction of the rehabilitation component.						
54.	Severe shortage of affordable housing for EWS and LIG groups of people; the role of housing provisions under the SRA and centrally sponsored schemes in exacerbating the housing deficit, leading to displacement of substantial number of households and creation of new slums.	Loopholes in schemes under the SRA and even in centrally sponsored schemes causes shifting of slum dwellers from one place to another, instead of eradicating the issue of slums. Selling of EWS and LIG tenements at exorbitant rates which EWS are unable to pay.	Government Resolution dated 27-04-2006 laying down the Integrated housing & Slum Redevelopment Programme.	Construction of Mixed-Use Buildings which incorporates rental housing, ownership units, commercial spaces and livelihood spaces within the same structure. Inclusion of rental units to subsidies the maintenance of the building by designating 20% of the tenements as rental housing. Additionally, allocate livelihood spaces of 600 sq. ft. against 100 households and exempt it from Floor Space Index (FSI) calculations.			T-6	The SRA implements slum schemes in accordance with Regulation 33 (10). The suggestion involves formation of a new policy.
55.	Lack of basic public amenities – no government schools, hospitals and other public services in the area; Inadequate water, sanitation, solid waste management facilities	Residents are completely dependent on private service providers whose charges are exorbitant making it financially strenuous to the residents. In the DCPR 2018, only select amenities have been mentioned explicitly for slum rehabilitation, these are not stand-alone amenities but	G.R. of 27-04-2006 which lays down the Integrated Housing & Slum Development Programme (IHSDP) which provides for basic and social amenities. 33(10) VIII 6, DCPR, 2034 33(10) VIII 8, DCPR, 2034 33(10) VIII 9, DCPR, 2034	The Urban Development Plans Formulation and Implementation ("UDPFI") guidelines of there being 1 pre- primary school for 2500 population and 1 senior secondary school for 7500 population and 1 dispensary for 15,000 people, 1family welfare center and 1 diagnostic center for 50,000 people should be implemented and made available. UDPFI guidelines should be followed with regard to open spaces, pre-primary, primary, senior secondary schools,			T-6	The issue regarding the amenities which are made available in the slum rehabilitation scheme is dealt with hereinabove.

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		tenements within the buildings. The size has been prescribed to 27.88 sq.m. forever multiple of or part of 250 hutment dwellers or 25 sq. m. in case of R&R. they include – 1. Anganwadi; 2. Healthcare center/outpost; 3. Community Hall/ gymnasium/ fitness center; 4. Skill development centre; 5. Women Entrepreneurship Centre; 6. Yuva Kendra/ Library/ Society Office; 7. Religious Structures. While these have been listed, only four amenities are incentivized for construction by the builder as 'free of FSI computation'.		dispensaries, primary health care centres, and other amenities Inclusion of basic amenities as an integral and inseparable part of the R&R process. Amenities need land reservations, especially for education and recreation, the must be accommodated into planning with R&R Colonies.				
56.	The 2022 Government ordinance to not charge property taxes to houses with less than 500 sq. ft. is not being followed			Outstanding tax payments with interests should be waived off. The 2022 ordinance must be followed.			T-6	Collection of property tax does not fall under the realm of SRA.

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57.	Many CHS have not received their corpus funds	This is a time-consuming process involving the SRA office, which does not function effectively	33(10) VIII 9, DCPR, 2034	The concerned authorities should transfer the amount along with the interest immediately to each CHS.			T-6	The SRA is considering on coming up with an SOP to deal with this issue.
58.	Many times, those displaced by PAP wait for years for the process of approving the eligibility of the households – for many it has not taken place till date. The residents cannot form a CHS as a result and undertake maintenance of their own buildings.			The eligibility of the occupants should be completed as soon as possible and the process of handing over permanent possession letters should be done so that the maintenance and repair work can be commenced.			T-6	The issue of eligibility and handing over of the PAPs is addressed in the Tables above.
59.	In many PAPs, the land under the building remains in ownership of the SRA. It is mandatory for the CHS to own this land on lease as per the CHS Act and Slum Act.		Government resolution dated 16-07-2016 regarding allotment of land on lease to eligible slum developers. Circular dated 14/09/2020 195 regarding the Lease Agreement Between SRA and the developer/ society with intent to enter into a SRS.	Lease of the land on which the R&R buildings are constructed must be handed over to CHS.			T-6	The issue of lease has been addressed in the Tables above.

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60.	Manner in which eviction takes place slum dwellers have no access to data/ documents related to the process of resettlement and rehabilitation. Many slum dwellers report not being consulted in the process of eviction and rehabilitation; Sufficient time period is not given before relocation process and eviction would begin and slum dwellers also suffer destruction and loss of possession during the eviction process		Eviction proceedings are under Section 33 and 38 of the Maharashtra Slum (Reformation, Clearance and Redevelopment) Act, 1971. Circular No. 147 dated 04/07/2011 whereby due process has to be followed while carrying out eviction proceedings under Section 33, and unlawful eviction shall not be carried out. 33(10) VI 1.16 (iv), DCPR, 2034 Section 10, SR Act Section 38, SR Act	There should be prior informed consent of all residents during the process of eviction and relocation. Adequate, timely and unrestricted access to information with regards to the eviction, relocation and resettlement Protection of the right of people to say no the eviction and displacement Relocation must be done close to source of livelihoods and protection of livelihoods in the process. Authorities should cover the relocation costs of the slum dwellers			T-6	The process of eviction is being carried out in accordance with law. As far as possible, the rehabilitation is carried out in – situ. In any case, it has been held by the Hon'ble Bombay High Court that there is no right to be rehabilitated in a particular place. The rehabilitation is carried out taking into account the planning possibilities and constraints which exist on site.
61.	Persons with disabilities and those who are unwell do not receive any special care or facility during the eviction / relocation process.			Inclusion of a special component in the R&R Package for vulnerable sections like persons with disabilities, women, children, older persons, members of Scheduled Castes and Tribes, and minority communities.			T-6	During eviction process, Concerned Officers takes proper care on humanitarian grounds for such cases.

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62.	Lack of coordination between authorities responsible for providing rehabilitation; Lack in uniformity in different rehabilitation policy and processes	Different statutes entail different entitlements leading to variances.	Government Resolution dated 21.09.2023 by way of which approval is given to allow projects of SRA to be implemented in joint partnership through other corporations/ authorities/ local bodies like MCGM, to implement joint venture between the SRA and the other relevant corporation or authority - Bilateral agreement between the local body/ corporation and the SRA	An R&R authority can be created in Mumbai who would have the power and responsibility of coordinating the different state agencies to address the problems faced by relocated families. Periodic review of the R&R Process by the affected people and their representative organisation; social audit and regular monitoring of projects and its R&R components; Clear demarcation of responsibilities and duties of the various agencies involved in the process of rehabilitation and resettlement; Proper co-ordination between relevant authorities with regard to implementation of the provisions of the R&R Policy. Establish criteria and processes for selection of rehabilitation agency; Develop standard operating procedures (SOPs) to be followed by rehabilitation agency and penalties for noncompliance of the same – these SOPs should include a section on participation of children of PAPs, preparedness of children and mitigation of hardships; Commission the development of a toolkit for the socio-economic assessment of the PAPs, environmental assessment of the			T-6	Every agency deals with rehabilitation of protected hut dwellers who are affected by their project. Protection to the hut dwellers is a state policy and concerned agencies provides rehabilitation as per prevailing policy. SRA is Special Planning Authority and already policy is formulated for rehabilitation of slum dwellers in SRA projects.

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				relocation sites and all other assessments that need to be completed prior to the initiation of the infrastructure project – this toolkit should include planning tools for eliciting the concerns and perception of children				
63.	The adverse effect on children during the process of eviction, relocation and rehabilitation; Safety issues persist amongst the children some owing to the architecture of R&R Colonies, and some owing to the process of rehabilitation and its impact on young people.	The impact on children during the whole process is flagrantly ignored.		One section in the R&R policy should be dedicated to children specifically with regards to the roles and responsibilities of planning authorities The process of shifting from one place to another should be non-violent and should minimize hardship and trauma for children – specific needs of children should be taken into account Mandate that displacement of PAPs should take place during annual summer vacation so that education of children remains uninterrupted. These guidelines should include penalties in case of delays or non-compliance of any of the stake-holders; Provide guidelines to municipal corporation to ensure provisions of education, health and recreation facilities to children of PAPs; Provide guidelines to guarantee safety and protection of children during the rehabilitation and resettlement processes;			T-6	As above.

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				Consider formation of an inter-departmental committee, including representatives from relevant municipal authorities for provision of services to project-affected children and their families post the resettlement; Ensure the set-up of a help desk to facilitate the access to services and ensure that children are in age appropriate education; Extend temporary care facilities so that families receive support in child care roles when settling down in their new homes; Law enforcement in such areas should take place in a community-centric manner with children's participation and can be made possible through the setup of Child Protection Committees in every ward as mandated by the Integrated Child Protection Scheme and Government of Maharashtra.				
64.	Current density norms for R&R are violative of standard density norms	This is due to constant floor space index incentivization in Mumbai. The DCPRs 2018 further allow for FSI for slum redevelopment to be as high as 4 which leads to higher densities. The DCPRs 2018 have made allowance for densities as high as 500-650 tenements per net hectare, which is four times the	Part VIII – General Building Requirements-DCPR, 2034	Planning authorities must restrict densities of rehabilitation buildings and ensure adequate housing standard for slum rehabilitation. Developing child-centric planning for rehabilitation will also help in ensuring better quality of life for its residents and simultaneously ensure children's development needs and their spatial needs are met.			T-6	The said issue has been addressed in the Tables above.

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		density specified in the UDPFI Guidelines that specify 125-175 persons per hectare. Higher tenement densities are not being met with equal provisioning of basic amenities, and there is a restriction in the size and number of amenities and a large number of building concessions are being allowed.						
65.	To do away with notion that poor family should be provided a free house because it lives in urban slum			On redevelopment everyone should pay their own house construction cost. Subsidies may be made available as also housing loans on pain of eviction in case of default. Housing to be offered on leave and licence to families which cannot afford EMIs covering construction cost. Ownership of land must be separate from the ownership of structure standing on it (as in Japan). On selling the premises the occupant may recover cost of construction. Occupant should not be permitted to claim any appreciation in the land value. Owner of the structure should be permitted to sell structure only to the owner of the land at construction cost less adjustment for deterioration.			A-8	As per the provisions of the Slum Act and DCPR, the SRA is providing free housing to the slum dwellers who are eligible. The suggestion would require statutory amendments.

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66.	Marginalization of Slum Dwellers	The voices of the slum dwellers, who are the primary beneficiaries of the Act, are often ignored during the planning and execution phases of the redevelopment projects. Forced evictions and lack of alternate housing arrangements for displaced families result in further disenfranchisement of already marginalized groups.		Strengthening the rights of slum dwellers	Yes	Act should be amended to include stronger legal safeguards for slum dwellers, including the right to alternate housing before any eviction is carried out and the right to participate meaningfully in redevelopment Decisions.	A-9	As per Circular 210, a rent of 3 years for the eligible slum dwellers, and a rent of 1 year for the ineligible slum dwellers is secured. After the slum dwellers are evicted, they are paid rents by the developers. The SRA is considering imposition of timelines for completion of the entire project and specifying such timelines in the LOIs. The slum dwellers would thus receive rents till such time their rehabilitation units are ready. Once ready, they will be given the possession of such units. Without 51% consent of the slum dwellers, the developer cannot be appointed.
67.	The economic rehabilitation of the Slum dweller is prejudiced.	After eviction and demolition, the said developer gets the revised building plan sanctioned wherein the rehab commercial units are located at the back side of the Slum Scheme wherein the Slum dweller in capable to carry out the business. Further, the condition of not creating third party right with respect to the rehab commercial units is discriminatory as various Slum dwellers are financially and economically not capable of carrying		The rehab commercial units be allotted front side of the road facing and/ or in such a way that the Slum dweller can carry out his business activities to carry out the bread for his family. The commercial rehab premises be permitted to be rented out on the Leave and License basis, but should not be allowed to be sold till the completion of the 10 years from the date of the allotment.			A-10	The Commercial Units are allotted in accordance with the provisions of the DCPR. Further, the position of the units may differ from project to project, depending on the plot and the planning constraints.

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		out their own business due to heavy investments and/or due to old age and/or death of head of the family and/or cannot carry on their existing business due to change in location and nature of structure etc. There is no option but, to give the said rehab commercial premise on leave and license basis, but action u/s 3e is initiated for renting out the said premise before the cap period of 10 years and thereby rights of the Slum dwellers are prejudiced.						
68.	Name of original occupant recorded in Annexure II continues till allotment of permanent tenement	In most cases, after the declaration of the annexure-II the scheme is normally completed on an average after 8 to 10 years and in some cases it is delayed for more than 22 years. After the declaration of the Annexure-II, various Slum dwellers create third party rights but the name of the new occupant cannot be recorded in the Annexure-II		After declaration of the Annexure-II, if the permanent tenement is not allotted within 36 months then, the tenement be allowed to transfer in the name of the new purchaser occupant and the name of the new purchaser occupant be recorded in the Annexure-II and be held Eligible for rehabilitation.			A-10	Sale purchase of eligible hutment dwellers in Annexure-II is not allowed. This is a State Policy. Proposal as suggested will propogate building of illegal slum structures.

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69.	Need to end electoral politics connected with slums.	All govt policies and decisions are taken based on electoral politics at the cost of law-abiding tax-paying citizens.		This can be ended only with changes in policies like the suspension of voting rights of slum dwellers till the demolition of structures.			A-11	
70.	Improper regulation of Slum Schemes	SRA failed to act as an effective regulator. Multiple regulators i.e. SRA and MahaRERA have entrusted the role of regulator creating new disputes/issues.		1. Restrict SRA's role to a planning authority and that too till approval of the SRA Scheme. 2. A developer shall have no role in slum declaration, society formation, eligibility, demolition of structures etc. Once the developer's role is taken away, corruption and other connected issues will be largely addressed. 3. The mechanism of appointment of the developer shall be changed as suggested by these Intervenors. 4. Slum dwellers who are encroachers and not paying any taxes etc. shall not be given any right to appoint/change developers and their rights shall be restricted only to get protection as per eligibility, transit rent during redevelopment and get possession of rehab flats. 5. After issuance of the LOI, all further approvals shall be entertained and approved by BMC as a common sanctioning authority. 6. A separate permanent effective mechanism for vacating a slum plot after issuance of IOD 7. After the issuance of CC, MahaRERA alone shall be considered as a common			A-11	The said issue is already addressed in the Tables above.

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				regulatory authority for the entire real estate sector as per the RERA Act - this will remove conflict between the RERA Act & Slum Act. 8. Section 13 of the Slum Act shall restrict the authority of SRA to remove/change a developer and MahaRERA alone shall exercise such powers as per sections 6, 7 and 8 of the RERA Act - this will remove conflict between the RERA Act & Slum Act.				
71.	Slum dwellers' rights need to be restricted and reviewed.			1.Slum dwellers shall have no right to selection or change of a developer. 2. Slum dwellers shall have no right to decide the slum pocket to be redeveloped. 3. Slum dwellers shall be liable to pay a specific lease rent for using the rehab flat allotted in lieu of their eligible structures. 4. Structure does not have supporting documents after the cut- off date shall not be held eligible and the developer shall not get any incentive for it. 5. A permanent database for slum dwellers must be created so that they are discouraged from selling existing rehab flats and occupying another structure in another scheme and/or getting rehab benefits for more than one structure and/or for benefit in another scheme. 6. Ownership of the rehab flat must be with the Government only and on its resale it must be returned to the Government. 7. Slum dwellers shall not be entitled to any benefit on the resale of the rehab unit.			A-11	The issues regarding RERA have been addressed in the Tables above. As regards the same of existing units, the slum dwellers are prohibiting from transferring units for a period of 5 years. As regards point 5, a slum dweller does not get benefit in two schemes. As regards the other points, the same may require statutory amendments, formulation of policies.

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				8. Amendment of section-2(d) of the RERA Act shall consider eligible slum dwellers as an allottee so that MahaRERA can redress all grievances of eligible slum dwellers after issuance of CC. 9. It is necessary to suspend voting rights till the demolition of the structure to end electoral politics connected with slums.				
72.	The compulsory use of TDR generated in Slum Schemes			1. Slum Schemes need to be self-independently viable without any cross-subsidization by burdening the other private development projects with compulsory use of TDR generated in slum schemes. 2. Non-viable or non-feasible slum pockets or slums on reservation plots must be linked with viable projects. 3. Private development projects are already overburdened with high taxes and development costs. There is no constitutional justification to penalize them by compelling them to use slum TDR. 4. Flat owners in private societies who have paid EMIs for acquiring homes in past and paying taxes shall not be compelled to continue in old dilapidated buildings whose redevelopment is not feasible due to cross- subsidization of TDR and higher taxes.			A-11	The said issue is already addressed in the Tables above.

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73.	Disparity or absence of a level playing field between private development schemes as compared to slum schemes			1. At present proposals u/s 33(10) of DCPR are getting several concessions and reduced rates of deposits, premiums etc. This does not benefit slum dwellers at all but developers of such schemes. 2. Whereas development schemes of private schemes other than u/s 33(10) of DCPR are burdened with higher rates of premium, deposits etc for no fault on their part. 3. There is a major difference between procedures and rules related to fire, RG, rain harvesting, structural stability, drainage, environment, open space, distance, and other basic rules for no fault.			A-11	The terms of the rehabilitation are set – out under DCPR 2034. The slum scheme is carried out in accordance with Reg. 33 (10). The concession if any, are set – out therein. Private schemes are carried out under other provisions of the DCPR. The suggestion of giving equal concessions to all will require an amendment to the DCPR.
74.	Conflict in laws causes immense losses and hardships to home buyers in slum schemes	At present change of developer can be done by slum dwellers as per section-13 of the Slum Act even after the sale buildings are under construction and regd with MahaRERA. This makes provisions u/s 6,7&8 of the RERA Act redundant and meaningless and leaves genuine homebuyers remediless after investing their savings or paying EMIs from earning during the golden period of their life. Dubious developers misuse such conflict by orchestrating such events or slum dwellers collude with rival developers and		SRA's power u/s 13 needs to be taken away once a project is registered with Maha-RERA u/s 3&5 of RERA Act and RERA Act shall have overriding effect over the Slum Act as per section-88 of RERA Act. Slum dwellers be allowed to make representations before Maha-RERA in proceedings u/s 6, 7 and 8 of the RERA Act by recognizing them as allottees by modifying section-2(d) of RERA Act.			A-11	The said issue is already addressed in the Table hereinabove.

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		use section-13 of the Slum Act for their own benefit.						
75.	Restriction on frequent changes in the delegation of administrative powers			Decisions on required officials and appointment of such officials must be made on a scientific basis. Tenure needs to be specific. Officials shall be held accountable if their decisions are reversed on the ground contrary to law, policy, judicial precedents and documents. Appointments must be filled before vacancies are created as per need and pending workload.			A-11	
76.	Change in existing criteria of approval of Annexure-III by SRA	Had the Annexure-III process been proper the number of failed/stalled projects would have been minimum		1.Detailed guidelines and scrutiny by independent professionals based on scientific parameters needed. 2. Claims and eligibility of developers need to be based on verified documents. 3. Financial capacity shall be reviewed by combining the cost of rehab+sale and not only on the on-sale plot 4. There are many cases where disputes have arisen in joint development cases. Hence, appropriate conditions need to be added to bind all joint developers and avoid the impact of their internal disputes on the project. 5. Review of financial position at regular intervals needed.			A-11	As regards introduction of new criteria to assess financial capability and joint venture projects, the same is addressed in the Tables above.

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				6. Review or imposition of additional conditions at the time of every amendment, revalidation needed.				
77.	Trading of slum schemes that are sanctioned by brokers/anti-social elements.			1. Grading of developers based on scientific criteria through independent professionals and credit rating agencies etc 2. Developers who satisfy eligibility criteria can participate in the E-Auction of slum projects on merits. 3. The developer's role is to start only by seeking approvals as all prior work from slum declaration, survey, revenue records update, eligibility and vacating will be done by SRA through various agencies by using technology.			A-11	The said issue regarding qualification of the developer and the supervision of the scheme of the SRA, the same has been addressed in the Tables above.
78.	Rehabilitation schemes shall not become a burden on existing infrastructure.			1. The cost of additional infrastructure shall be borne by SR Schemes and not by other schemes. 2. Adequate civic amenities and infrastructure shall be created.			A-11	A slum scheme is sanctioned taking into account the infrastructure in existence and the plot constraints. A slum scheme contains such amenities as are feasible to be introduced.

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79.	Offering sale units to the public for sale on the Website to reduce marketing costs.			The website shall give extensive details of flats available for sale. Prospective buyers can compare the options on multiple factors.			A-11	The SRA is concerned with the rehabilitation units. The sale units are the incentive given to the developers and subject to completion of the rehabilitation units, they are entitled to deal with the same.
80.	Improving accessibility to finance			Easy finance at competitive rates: Treating projects as infra projects. The sector shall be considered a Priority lending sector to get finance at competitive rates. Multiple finance options for investors: Govt shall approve multiple schemes to attract investors. Sale units shall be available on a leave and license basis and ownership with investors with all legal protection. Fraction ownership schemes may be encouraged with all legal protection.			A-11	
81.	Innovation and changes			Technology review and upgrade: Govt should invest/encourage research in technology upgrades. Alternative to natural resources: Innovation & research shall be conducted to provide alternatives to natural resources.			A-11	Presently, the SRA has many initiatives introduced which rely on technology. Few examples of the same are – introduction of Biometrics and auto – Annexure II, Drone survey, filings of complaints for non – payment of rents online, proposed mechanism to notify slum dwellers through SMS regarding publication of Annexure II, proposed measure to require the developer to update the payment of rents / status of rents online etc.

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82.	Policy stability and implementation			Policies must be framed after proper study of all aspects. Periodic or need based review of policy. Implementation must not be half-hearted or haphazard.			A-11	The SRA implements Circulars after considering all the difficulties which are faced by stake – holders in implementing slum schemes. The Circulars are formulated based on experience.
83.	Quality, design & maintenance of rehab buildings,	Quality of many rehab buildings is such that they may require redevelopment in short period. Rehab buildings are constructed by obtaining many concessions in basic requirements like fire, rain harvesting, structural stability, drainage, environment, open space, distance, RG etc. So rehab buildings look like another slum. Slum dwellers do not maintain the flats & buildings properly. SRA has issued Part OCs even when work was not completed and flats were unhabitable.		MahaRERA already have mechanism and provisions for quality control and quality assurance and insist on quality certificate from professionals. So if MahaRERA is considered as regulator, it can ensure quality of rehab buildings also. RERA Act has defect liability provision u/s 14 and hence this aspect can be covered by MahaRERA once it is accepted as common regulator. Power of SRA to issue OC etc must be curtailed at least for Sale Buildings. Power of SRA to issue approval after LOI must be curtailed and all approvals must be handled by BMC as a common authority.			A-11	This issue is already dealt hereinabove.

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		SRA issues amendments without ensuring prior approval from Maha RERA and allottees which is mandatory u/s 14 of RERA Act.						
84.	Recognition of Rights of persons with lawful interest in the land	The current legal framework predominantly recognizes the rights of landowners, while neglecting the rights of lessees and other individuals with legitimate interests in the property. Notices are issued exclusively to landowners wile the actual occupants (non-slum dwellers with valid documentation) are not notified about proceedings under the Slum Act. A lessee under a Slum Scheme is deprived of a larger area in which he would havean interest.		Amend the law to recognize and protect the rights of lessees and other valid occupants. There is no distinction made between persons who are lawfully occupying the property and encroachers.	Yes		A-16	Notice is given to all stakeholders or concerned parties & they are being heard before passing any orders / initiating action.

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85.	Rehabilitation of Non residential structures	The current scheme for rehabilitating factories under the Slum Scheme disproportionately benefits developers, as factories do not require rehabilitation in the same manner as residential structures		Revise the rehabilitation scheme for nonresidential structures to ensure equitable treatment and prevent undue benefits to developers			A-16	Industrial Structures requires segregation distance as per DCPR 2034 & to accommodate non – hazardous industries, existing users are allowed to be continued in SRS. This issue pertains to zoning laws and the same is addressed by the DCPR – 2034.
86.	Affordable rental housing provisions	An important aspect of affordable housing is the availability of affordable rental housing. Currently, both the SRA and the state government have no plan or road map for the same. Also, there is no production or availability of affordable housing in market led developments by private builders. MHADA has not been doing enough.		Slum redevelopment schemes should be considered as a viable opportunity for promoting certain sections of the sale component earmarked for affordable rental housing along with restricted range of tenement areas – 30, 40, 50sq. mt. areas as adopted by MHADA for EWS and LIG housing.			A-27C	There is no policy for rental housing.
87.	DP 2034 reservation of slum land	There is no specific reservation for slums occupied lands. Instead, slums land has multiple reservations for all other developments, with some areas designated for general housing- 'H', and recreational ground (RG) & playgrounds (PG) common for the city.		Land should be reserved exclusively for affordable housing while maintaining the recreational ground & playground reservation to provide opportunity for the supply of additional affordable housing stock, ncluding affordable rental housing, as being the sale component of a slum's redevelopment project. Slums redevelopment scheme is one opportunity to build and make available affordable housing for sale that otherwise is not available.		In case the slums occupied lands are reserved as lands for affordable housing, then the prevailing trend of land apportionment for rehab and sale being on the basis of 25 to 30%: 75% to 70%, and the conflicts arising from it will not	A-27C	This will require statutory amendment to the MRTP Act.

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						arise.		
88.	In respect of commission of cognizable offences while implementing of the Scheme, matter are referred to A.C.B. – AGRC, contrary to Cr. P.C now and BNSS, 2024.	With regard to offences committed in S. R. Scheme, Complaint has to be firstly filed before ACB – AGRC and then pursuant to outcome of said Complaint, further course of action is decided in the matter		To abolish ACB – AGRC / HPC as the same was in violation of Cr.P.C., 1973 and/or now B.N.S.S., 2023.			T-10	The said issue is already addressed in the Tables above.
89.	Building Plan / Layout.	Developer unilaterally decides Building Plan / Layout, without consultation from Society, thus, Society / Members needs / requirements are not given due consideration.		Approval of the Building Plan / Layout, should be taken from the General Body of the Society, before filing it before SRA for approval.			T-10	This issue has been addressed hereinabove.

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90.	Commercial Premises	Rehabilitation of Commercial Tenements are compromised, being in small number.		a. Relocation of 'Commercial Premises', should be as far as possible on ground floor, having equivalent locational advantage, as existing prior to demolition. Rehabilitation of 'Commercial Premises', should not be compromised for commercial gain of Developer. b. In case of large Commercial Premises [i.e. more than 225 sq. ft. carpet area], the slum dweller should be given preferential right to purchase additional area over and above 225 sq. Ft. at construction cost, which construction cost should be decided by SRA and not left to the discretion of the Developer. In this regard, at the time of appointment of the Developer itself, a tripartite Agreement should be executed between Developer, Society and SRA, wherein, location of rehabilitation of 'Commercial Premises, transit rent amount and rate of purchasing additional area over 225 sq. ft. carpet area [upto exiting commercial premises area], should be recorded.			T-10	This issue has been addressed in the Tables above.

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91.	Construction Quality and timely construction of Project.	The Construction Quality of the Rehab Buildings are very poor and in a period of 10 – 15 years, would require further redevelopment; Rehab Buildings are not constructed in time and there is too much of delay. Slum Dwellers have to wait for years and in some scheme for more than 20 years, for their rehabilitation.		a. Quality of construction should be the responsibility of the Developer and same should be checked, tested and audited by team of atleast 03 (three) officers of the S.R.A every 03 (three) months, who shall be personally responsible for any future defect. Further, it shall also be the responsibility of the architect/RCC consultant, appointed for the Scheme. b. Any recommendation based on Report given by such Officers, should be immediately rectified within a reasonable time specified therein and till such rectification is done, no further permission should be given to the Developer. And in case of default, Stop Work Notice should be issued immediately. Defect liability should be the essence of permissions issued for construction of the building for rehabilitation of the slum dwellers. c. Incase, of Rehab Building already completed, the same shall be audited by SRA and Developer be directed to take necessary steps/ measures, as per such audit			T-10	a - Third party quality audit is made mandatory. Architect, Developer & Structural Auditors are responsible for quality. b - Defect Liability is enhanced to 10 years (SRA Circular no. 216 dtd.21/02/2024) c – No infinite time can be given. After completion of DLP, society has to maintain the Rehab Building.

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92.	Fire Safety Measures.	It is noticed that in many S.R. Schemes, Fire Safety equipments are installed for name sake and the Occupation Certificates are granted by SRA without actual verification of factual position of Fire Safety measures. The issues like smooth and obstruction free access for Fire Engineer around Building are compromised. Fire NOC and OC are issued without subjective satisfaction. It is also noticed that in majority cases Fire Extinguishers and Equipments though installed, however, remain non – functional, thereby compromising with life and property of the occupants therein.		Fire Audit of Rehab Buildings to be carried periodically by CFO and an independent agency, essentially to evaluate following issues:- a. Installation of Fire Equipments, that too in working condition; b. Fire Engine movement in the Rehab Building, to ensure reach to fire affected site, incase of fire emergency, Compulsory implementation of Mock Drill/ Demonstration Programs to ensure that occupants are well versed and aware to deal with the Fire incidents in such Buildings.			T-10	This issue has been addressed above.

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93.	Compliances of Environment norms	It is noticed that, in nabt cases, despite compliances of Environment norms are incomplete, Occupation Certificates are granted to the Rehab Buildings, Right to Life, liberty, clean and healthy environment is absolutely ignored.		O.C. must not be granted to the Rehab / Sale building unless compliances of Environment / permission / norms and condition of Permission are adhered by the Developer in all aspect. Any concession to such condition gives a license to the Developer to delay gives unfettered authority to Developer to delay the compliance, This, violates the fundamental rights of the rehabilitated Slum Dwellers and flat purchasers.			T-10	The issue regarding permissions to be obtained is addressed above. The same is governed by the provisions of DCPR – 2034.
94.	Corpus.	It is seen that the Corpus of Rs. 40,000/-[as on date provided] is inadequate for taking care of the maintenance of the Rehab Building. Moreover, Number of Floors of the Rehab Building should also be considered, because, more the height of the Building, more is the maintenance.	Clause No. 9 of Regulation No. 33(10) of DCPR, 2034.	Corpus Fund of Rs. 60,000/- per tenement for buildings upto 10 floors should be deposited by the Developer with SRA, which should be released in the account of the Society immediately upon O.C. of the building and for Buildings of above ten floors corpus fund should be Rs. 1,00,000/- per tenement.			T-10	This issue has been addressed in the Tables above.
95.	High Rise Building.	Maintenance of High Rise Building is very high, which is very difficult for poor slum dwellers.		Permission for High Rise Buildings should be avoided and instead of one High Rise Building, multiple small buildings may be constructed on the Plot.			T-10	This issue has been addressed in the Tables above.

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96.	R. G. / Open Space.	It is seen R.G. / Open Space are provided more in Sale Component. Moreover, R.G. / Open Space provided in Rehab Portion are scattered, thereby defeating the very purpose.		In the present S.R. Scheme, R.G. has been shown at 02-03 Places in the plan submitted to Environment Department. However, in reality R.G. has not been provided on the site. Provision for R.G./ Open Space in rehab and sale should be same as per minimum area prescribed in the DCPR and provision for such R.G/ Open Space, should be made at one place for maximum utilisation rather than the same being scattered on plot.			T-10	This issue has been addressed in the Tables above.
97.	Fungible FSI / Compensatory FSI.	Benefit of Fungible F.S.I [Compensatory F.S.I] [Regulation No. 31(3) of DCPR 2034], is taken for Sale Component and the benefit is not utilised and shared with Rehab Component.	Regulation No. 31(3) of DCPR, 2034.	If the developer is taking benefit of fungible FSI, same should be shared in equal proportion with Rehab portion.			T-10	This issue has been addressed in the Tables above.
98.	No Parking / adequate Parking provided in Rehab Building.	Though Regulation provides for Parking, however, the same is not provided in Rehab Building, thereby, forcing the slum dwellers to park their bike / car in access road to the Building and ultimately leading to congestion. In case of any emergency, evacuation will be impossible.		In the present S.R. Scheme of the Society not even a provision of single 04 [wheeler] parking has been provided to 150+ Slum Dwellers. Adequate number of parking should be made for the rehab building of slum dwellers so that approach road to slum buildings are not congested, as most of the slum dwellers park their bikes / car / rickshaw / taxis on access road, due to non-providing of designated parking space, which leads to congestion to rehab buildings.			T-10	This issue has been addressed in the Tables above.

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99.	Lease / Conveyance.	It is seen that after the Scheme is complete, the Developer do not take lease / conveyance in favour of the Society.		In the present S.R. Scheme, Conveyance / Lease Agreement has not been executed / entered into with the Society. The provision of Deemed Conveyance in S.R. Scheme must be introduced. At the time demarcation of rehab and sale portion, lease/ conveyance should be executed in favour of slum Society, and in any case, before issuance of O.C. No O.C. should be issued before execution of lease in favour of slum society. Incase, the Developer becomes non-cooperative/ insolvent/ dissolved or for any other reason unable to grant lease or conveyance, then provisions for deemed Conveyance/ Lease be introduced.			T-10	This issue has been addressed in the Tables above.
100.	Maintenance of lift, Fire Fighting System etc.	Due to lack of maintenance of Lift, Fire Fighting System etc., the same are non-operative.		a. Tripartite Agreement should be executed between Society, Developer and the Service Provider of Lift, Fire Fighting System etc., under the supervision of SRA, so that Lift, Fire Fighting System etc. are operative. b. Rain water harvesting, solar panels for electrification of common area lights should be installed by the Developer. c. It may be noted that, in the present S.R. Scheme, no such Tripartite Agreement has been entered and executed with the Society.			T-10	This issue has been addressed in the Tables above.

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