

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 676 OF 2024
WITH
INTERIM APPLICATION (L) NO. 21132 OF 2023
IN
WRIT PETITION NO. 676 OF 2024

- 1. SHANTI DHARMA CO-
OPERATIVE HOUSING
SOCIETY LTD,**
Through its Chairman
Having its office at: 284, Mogul Lane,
Raut Wadi, Mahim (West), Mumbai.
- 2. HARISHCHANDRA CO-
OPERATIVE HOUSING
SOCIETY LTD,**
Through its Chairman
Having its office at: Harishchandra
Apartment, Chatrapati Shivaji Marg,
Mogul Lane, Mahim (W),
Mumbai 400 016.

... PETITIONERS

~ VERSUS ~

- 1. STATE OF MAHARASHTRA,**
Through the Urban Development
Department & Town Planning
Department
Having office at: Mantralaya, Mumbai.

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2. **SLUM REHABILITATION AUTHORITY,**
Through its Chief Executive Officer,
Having its office at: Government
Building, Anant Kanekar Marg, Bandra
(East), Mumbai 400 051.
3. **MUMBAI MUNICIPAL CORPORATION,**
Through its Commissioner,
Having office at: Mahapalika Bhavan,
Mahapalika Marg, C.S.T.,
Mumbai 400 001.
4. **MEENATAI THAKARE CHS LTD,**
Through its Secretary,
Having its office at: Plot No. 251B
Meenatai Thakare CHS Ltd, Raut
Wadi, Bhandar Gali, Mahim,
Mumbai 400 016.
5. **SAROJ SHYAMRAO CHOUHE,**
An adult Indian inhabitant, residing at
79, Rautwadi, Bhaskar Patilwadi, Mogal
Lane, Mahim, Mumbai 400 016.
6. **CHANDRASHEKHAR MANIK PATIL,**
An adult Indian inhabitant, residing at
80, Rautwadi, Bhaskar Patdwadi, Mogul
Lane, Mahim, Mumbai 400 016.
7. **VIJAY LAXMAN PATIL,**
An adult Indian inhabitant, residing at
81, Rautwadi, Bhaskar Patdwadi, Mogul
Lane, Mahim, Mumbai 400 016.

8. **RAVINDRA JAGANNATH KERKAR,**
An adult Indian inhabitant, residing at
82, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
9. **NITIN A KURLIKAR,**
An adult Indian inhabitant, residing at
54, Raurwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
10. **NAMRATA NANDKUMAR RAUL,**
An adult Indian inhabitant, residing at
85, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
11. **VIVEK RAGHUNATH PATIL,**
An adult Indian inhabitant, residing at
86, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
12. **SUDHA GAJANAN PATIL,**
An adult Indian inhabitant, residing at
87, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
13. **MADHUKAR PANDURANG RAUL,**
An adult Indian inhabitant, residing at
88, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
14. **RAMCHANDRA SHRIPAD AMBRE,**
An adult Indian inhabitant, residing at
89, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.

15. **PRAKASH RAMCHANDRA AMBRE,**
An adult Indian inhabitant, residing at
90, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
16. **BABU CHURI,**
An adult Indian inhabitant, residing at
91, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
17. **JITENDRA KASHINATH SANE,**
An adult Indian inhabitant, residing at
92, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.

... RESPONDENTS

WITH
WRIT PETITION NO. 696 OF 2024

1. **SAROJ SHYAMRAO CHOUBE,**
An adult Indian inhabitant, residing at
79, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
2. **CHANDRASHEKHAR MANIK PATIL,**
An adult Indian inhabitant, residing at
80, Rautwadi, Bhaskar Patdwadi, Mogul
Lane, Mahim, Mumbai 400 016.
3. **VIJAY LAXMAN PATIL,**
An adult Indian inhabitant, residing at
81, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.

4. **RAVINDRA JAGANNATH KERKAR,**
An adult Indian inhabitant, residing at
82, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
5. **NITIN A KURLIKAR,**
An adult Indian inhabitant, residing at
84, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
6. **NAMRATA NANDKUMAR RAUL,**
An adult Indian inhabitant, residing at
85, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
7. **VIVEK RAGHUNATH PATIL,**
An adult Indian inhabitant, residing at
86, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
8. **SUDHA GAJANAN PATIL,**
An adult Indian inhabitant, residing at
87, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
9. **MADHUKAR PANDURANG RAUL,**
An adult Indian inhabitant, residing at
88, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
10. **RAMCHANDRA SHRIPAD AMBRE,**
An adult Indian inhabitant, residing at
89, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.

11. **PRAKASH RAMCHANDRA AMBRE,**
An adult Indian inhabitant, residing at
90, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
12. **BABU CHURI,**
An adult Indian inhabitant, residing at
91, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.
13. **JITENDRA KASHINATH SANE,**
An adult Indian inhabitant, residing at
92, Rautwadi, Bhaskar Patilwadi, Mogul
Lane, Mahim, Mumbai 400 016.

... PETITIONERS

~ VERSUS ~

1. **SLUM REHABILITATION AUTHORITY,**
A statutory body constituted under the
provisions of the Maharashtra Slum
Areas Act, 1971, having its office at
Administrative Building, Anant
Kaneekar Marg, Bandra,
Mumbai 400 051.
2. **MUNICIPAL CORPORATION OF GREATER MUMBAI,**
A statutory body constituted under the
provisions of the Mumbai Municipal
Corporation Act, 1888, having its office
at Mahapalika Bhavan, Fort,
Mumbai 400 001.
3. **SHANTI DHARMA CO-OPERATIVE HOUSING SOCIETY LTD,**
Through its Chairman

Having its office at: 284, Mogul Lane,
Raut Wadi, Mahim (West), Mumbai.

4. **HARISHCHANDRA CO-
OPERATIVE HOUSING
SOCIETY LTD,**
Through its Chairman
Having its office at: Harishchandra
Apartment, Chatrapati Shivaji Marg,
Mogul Lane, Mahim (W),
Mumbai 400 016.

... RESPONDENTS

APPEARANCES

**FOR THE PETITIONERS
IN WP/676/2024 AND
FOR RESPONDENTS NOS
3 & 4 IN WP/696/2024**

**Dr Uday Warunjikar, with Siddhesh
Pilankar, Jenish D Jain, Sakshi
Inamdar & Gargi Warunjikar.**

**FOR THE
PETITIONERS IN
WP/696/2024 AND FOR
THE APPLICANT IN
IA(L)/21132/2023 AND
FOR RESPONDENTS NOS
5 TO 17 IN WP/676/2024**

**Dr Abhinav Chandrachud, with
Akshay Deshmukh & Parth
Mehta.**

**FOR RESPONDENT-SRA
IN WP/676/2024**

Ms Simantini Mohite.

**FOR RESPONDENT-SRA
IN WP/696/2024**

Mr Jagdish G Aradwad (Reddy).

**FOR RESPONDENT-
STATE**

Mr Milind More, Addl. GP.

**FOR RESPONDENT-
MCGM**

**Mr Atul Damle, Senior Advocate,
with Rupali Adhate.**

**CORAM : G.S. Patel &
Kamal Khata, JJ.**

DATED : 8th March 2024

ORAL JUDGMENT (Per GS Patel J):-

1. This common order will dispose of both Petitions.
2. **Rule**, in both Petitions. Respondents waive service. By consent, the Petitions are taken up for hearing and final disposal.
3. To gain a clear understanding of the issue before us, we begin with a reference to the site location plan annexed at page 3 of our order of 22nd February 2024. For clarity it is annexed once again, in full size (with some superimposed markings). We have also extracted the inset location plan as this shows graphically the relative locations of the sites in question. In addition, there is a Google Map image.
4. The structures in the middle of the shaded portion are the ones that are the subject matter of both Writ Petitions. The 13 Petitioners in Writ Petition No 696 of 2024 (Saroj Shyamrao Choube and others) claim firstly, that they were municipal tenants and have with them rent receipts from the municipal corporation. Secondly, they say that their premises are substantial in size. Thirdly, they claim that they could not have been allotted premises of a much smaller area in a Slum Rehabilitation Authority (“SRA”) scheme that was put up at the location along the alignment of that road.

5. The sketch plan shows several housing societies, including the Meenatai Thakare SRA CHSL, in which it is said the Petitioners (Saroj Shyamrao Choube et al) were offered re-accommodation. They declined to take it. They continued in their structures in middle of this road.

6. Adversely affected by these structures are the Petitioners in Writ Petition No 676 of 2024, viz., the Shanti Dharma CHSL. To that Petition, the Petitioners in the other Petition (Saroj Shyamrao Choube and others) have been added as Respondents by an amendment. The Meenatai Thakare CHSL is also a party as the 4th Respondent. There is another society or building on the same side of the road as the Shanti Dharma CHSL that is also affected by these structures. On the opposite side of the road to the north is the Harishchandra CHSL. The Shanti Dharma CHSL is on Plot No 284. There is yet another society, Padma Deep on Plot No 282. In addition, there are buildings called the Prabhu Building at Plot No 287 and the Venus Building on part of Plot No 251 B.

7. Dr Warunjikar for Shanti Dharma submits that the simple prayer in the Petition is to remove the structures of Saroj Shyamrao Choube and others and to decide a representation made by the Shanti Dharma Society.

8. Expanding on his argument, he submits that it simply cannot be that structures continue like this on an access road. This interferes with every form of access to the various cooperative societies, not one of which has had its legality questioned. More

importantly, he points out, that access of emergency vehicles is obstructed. Even routine passage is obstructed. There have been recent incidents where emergency vehicles could not access one or the other Society.

9. Dr Chandrachud for Saroj Choube and the 12 other Petitioners submits that this a really matter of balancing equities in administrative action. If these 13 Petitioners were originally municipal tenants, he submits, they could not be compelled to take accommodation of a much smaller area than they originally occupied. Their refusal to take that accommodation (even if it is said to have been offered to them and which he disputes) could not be held against them. He does not oppose relocation *per se*. He does, however, submit that any relocation must be in a proximate area and must be of a reasonably commensurate size, even if it is not on an inch for inch square foot basis.

10. Dr Chandrachud's case regarding municipal tenancy is contested by Mr Damle for the Municipal Corporation of Greater Mumbai ("MCGM"). His submission is that the 13 individual Petitioners have themselves made several averments in the Petition that belie this contention. When these are read with the Affidavit in Reply, it will show that the claim to municipal tenancy is entirely untenable. Paragraph 4 of the Petition at page 5 opens with the 13 Petitioners saying that they were tenants of *private* landlords in occupation of these structures.. They claim that this occupancy goes back many years. There were originally 33 structures. Today only these 13 remain. We are not concerned with the prior private

tenancy. The same paragraph then says that in 1970, the MCGM as the planning authority under the Maharashtra Regional Town Planning Act, 1966 (“**MRTPA Act**”) acquired the plot of land on which stood these 13 (or 33) structures. The submission is that the Petitioners ‘thus’ became tenants of the municipal corporation. It is this latter formulation that Mr Damle contests.

11. The MCGM has filed two Affidavits in Reply in the Saroj Choube Petition. In the first Affidavit affirmed by one Krishnaji Parab, Assistant Engineer Town Planning on 6th February 2024, the averment is that the State Government sanctioned Town Planning Scheme III and it came into force on 1st March 1961. Once that happened, all lands acquired by or for the planning authority vested in it free of all encumbrances. In sub-paragraph 5(b), Parab says that there were 64 occupants who had collectively formed a cooperative society and submitted a slum rehabilitation scheme proposal called the Meenatai Thakare CHSL. The developer was one Janki Developers. The proposal was of 1996. The MCGM scrutinised the proposal, prepared an Annexure II and issued this on 26th August 1996. It was then sent on to the SRA constituted under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act 1971 (“**Slums Act**”).

12. Parab further says in paragraph 5(c) that 28 occupants who resided on the 40 feet wide TP Road were eligible occupants included in the Meenatai Thakare slum rehabilitation scheme. SRA was required to provide alternative accommodation in the slum rehab building. Of these 28, 15 accepted possession from the SRA

and took up units in the Meenatai Thakare CHSL. The SRA then issued a Letter of Intent (“LoI”) for the scheme. Condition 24 of the scheme was that the developer or the society or SRA had to remove and rehabilitate all structures on this 40 foot wide TP Road, including the structures on Final Plot No 249.

13. Parab’s next averment is that Final Plot No 249 of TPS III of the Mahim Division was encumbered by five occupants. They had to be evacuated and the rehabilitation was to be done according to policy because that plot was reserved for a municipal primary school. These five structures were included in the slum redevelopment , i.e., the Meenatai Thakare CHSL.

14. There followed a Gazette Notification of 12th April 1997 declaring the area as a slum on Final Plot No 251A and Final Plot No 251B of TPS III of the Mahim Division. A total of 98 encroachers were noted of which 89 were found to be eligible. The plots in question were declared as a notified slum on 12th April 1997.

15. What happened thereafter was curious. There was insufficient Floor Space Index (“FSI”) for the slum redevelopment. MCGM gave an area of 2711.50 sq mts to the slum redevelopment to enable a clearance of the encroachments on the 40 foot wide TP Road and 20 foot wide access road as also Final Plot No 249.

16. The developer did not clear the encroachments on the 40 foot wide TP Road.

17. Meanwhile, Shanti Dharma CHSL wrote to the MCGM demanding clearance of these encroachments specifically saying that these interfered with the access to the Shanti Dharma CHSL. The MCGM Affidavit says that this was within the jurisdictional remit of the SRA because the MCGM had given the SRA a No Objection Certificate (“**NOC**”). Consequently, the MCGM asked for remarks from the SRA in May and June 2022.

18. Paragraph 5(i) of Parab’s first Affidavit says that all 13 Petitioners’ structures are on the 40 foot wide TP Road. Parab maintains that the SRA was bound to provide alternate accommodation. In regard to one Petitioner, Prakash Ramchandra Ambre (the 11th Petitioner), his structure was not seen in the Town Planning records. Further, the 11th Petitioner is the son of the 10th Petitioner and there was only one structure recorded in the name of the 10th Petitioner in the records of the Town Planning department.

19. Importantly, the Affidavit notes that the FSI benefits of this portion of municipal land was consumed in the construction and development of the Meenatai Thakare slum redevelopment on Final Plot Nos 251A and 251B of TPS III, Mahim Division. Of the total number of 28 occupants, 15 took possession. Only these 13 Petitioners remain. The MCGM Affidavit does not dispute that the road needs to be cleared.

20. There is then a supplementary Affidavit dated 20th February 2024 by Parab. In paragraph 5, he reiterates what he had said earlier in regard to Ambre and to the number of persons who had taken

possession leaving behind on this 40 foot wide TP Road only these 13 Petitioners. The exact location and relative locations of other societies were ascertained and hence there came to be produced on Affidavit the map to which we have referred earlier. The Affidavit points out that the Shanti Dharma Society is a ground and three floor structure on Final Plot No 284. It abuts the 40 foot TP Road. This road connects from Chatrapati Shivaji Maharaj Marg on the north to Bhandar Gali on the south. The Harishchandra CHSL is a ground and five floor structure. It is on Final Plot No 286. It also abuts the 40 feet wide TP Road. Prabhu Building is a ground and five floor structure on Final Plot No 287, also located on this road. The Meenatai Thakare CHSL is a ground and seven floor structure on Final Plot No 251 A and is on this very 40 foot wide TP Road.

21. The supplementary Affidavit then says that the MCGM had prepared an Annexure II of 13 structures (12 Town Planning tenants and one slum dweller) and had sent this on to the SRA. Rehabilitation in the SRD, Parab says, is the responsibility of the SRA.

22. In both Petitions, there is a reference to a communication of 3rd June 2014. It is Exhibit “C” at page 23 of the Shanti Dharma Petition. We had occasion to reference this in a previous order dated 8th February 2024. We did so because the submission at that time was what Dr Chandrachud submits even now, that no offer of allotment was made.

23. Page 23 was a communication from the MCGM and was apparently a submission by the Assistant Engineer to the Assistant Commissioner of the MCGM. It recommended action under Sections 33 and 38 of the Slums Act. It said that the Meenatai Thakare composite rehab building of two Wings “A” and “B” was ready. Permanent accommodation was available. An Occupation Certificate (“OC”) was issued on 6th March 2014. It noted that there were 17 structures and one commercial shop following on the 40 foot wide TP Road. There is a Table of 18 names in the document which shows the occupancies. The 1st Petitioner is at Sr No 5. The 2nd Petitioner is at Sr No 6. The 3rd Petitioner is at Sr No 7. The 4th Petitioner is at Sr No 8. The 5th Petitioner is at Sr No 10. The 6th Petitioner is at Sr No 11. Petitioners Nos 7, 8, 9, 10, 11, 12 and 13 are respectively at Sr Nos 12 to 18 of this tabulation.

24. The Petition filed by the 13 individual Petitioners also annexes the same document. It says, however, that three occupants (not among the Petitioners) were issued notices under Sections 33 and 38 of the Slums Act. These were challenged in an Appeal. The Appeal failed. A Writ Petition came to be filed and these three occupants gave an undertaking that they would shift to the alternative accommodation.

25. We do not see how this can assist the 13 individual Petitioners today because it cannot possibly result in them being allowed to continue on site. All that this means is that these 13 Petitioners were entitled to take up re-accommodation in the Meenatai Thakare CHSL. In fact, premises were constructed for them. There seems to

be little dispute that the 13 individual Petitioners did not in fact take those premises and instead remained on site on the 40 foot wide access road.

26. That, unfortunately, is not an option that is available to them.

27. But what happened to the rehab premises in the Meenatai Thakare CHSL that were meant for these 13 Petitioners? We are told that there are now others who are in occupation of those premises today. This is of some concern. We do not know how those allotments to third parties were made. There are allegations that those allotments were illicitly done. That is not the subject matter of either of the Petitions before us and we can render no opinion in that regard apart from noting that *prima facie* this would involve engaging with seriously disputed questions of fact. The undisputed position is that those premises that were supposedly meant for 13 individual Petitioners are today unavailable in the Meenatai Thakare CHSL.

28. But does this mean that the 13 individual Petitioners can continue to obstruct the access road? Everything on the record before us points to the contrary. What is the alternative that is available to these 13 Petitioners? Mr Reddy, learned Advocate for the Respondent SRA, and Mr Damle, learned Advocate for the Respondent MCGM, both say that these 13 persons will be accommodated in what are called Project Affected Person (“**PAP**”) tenements, wherever these are available. The list of these is set out

in paragraph 13 of the Affidavit in Reply filed by the SRA in Saroj Choube's Petition.

29. Dr Chandrachud's complaint is that these PAP tenements are meant for project affected persons. If the individual Petitioners are included in a slum redevelopment project, they cannot be put into PAP accommodation. But that is surely a situation of the individual Petitioners' own making. There is simply no space available for them presently in the Meenatai Thakare CHSL. They also cannot continue to obstruct the access road. That would be putting a premium on illegality and allowing an unacceptable obstruction of an access road to continue.

30. A more balanced way of approaching this would be to direct the SRA to immediately initiate action against the 13 tenements that are said to be illicitly allotted. Mr Reddy states that action has already been initiated. We direct the SRA to take this up on a priority basis and not to allow that final determination to be unnecessarily prolonged. As and when any of those allegedly illicitly occupied tenements in the Meenatai Thakare CHSL are recovered and possession is restored to either the society or to the SRA, then by virtue of this order, and in priority sequence of the array of Petitioners, an offer must be made to the 13 individual Petitioners to take up the SRA accommodation in lieu of the PAP tenements. We make it clear that these 13 Petitioners cannot have both the PAP tenements and the SRD premises. We also make it clear that this is not a merely a question of allotment but is a matter of an option of first refusal. For all we know, one or more of the 13 Petitioners

might be perfectly happy in a PAP tenement and may not want to shift back. That choice is therefore one that they will have to make if and when the SRD premises are freed and are available.

31. We go a step further. In any proceeding that any occupant of these allegedly illicitly occupied flats in the Meenatai Thakre CHSL files against the SRA whether in this Court and whether before a Single Judge or a Division Bench or in a Civil Court, the 13 individual Petitioners must be joined and must be served so that the rival rights can be balanced. Otherwise, the entire litigation process will take an indefinite amount of time and it will be impossible for these 13 persons to be able to monitor what is being said against what was undoubtedly their entitlement in the SRA project. We say this because the one thing that is undeniable is that every one of these 13 Petitioners (subject to the contentions about Ambre) was as per the MCGM's own Annexure II, eligible for re-accommodation in the slum rehab building. It simply cannot be that when possession is being recovered of an illicitly allotted or occupied flat in the slum rehab building, the 13 Petitioners who were originally and initially eligible for those apartments should be kept in the dark and should not know what is happening in regard to those very premises. That is the reason for this direction. Of course, it goes without saying that in any such proceeding it is for the SRA to give the current PAP tenement address of the 13 individual Petitioners so that they can be served.

32. Mr Reddy clarifies that in light of this, what is being presently offered to the 13 Petitioners is temporary transit accommodation in

the PAP tenements subject to premises being freed/recovered in the Meenatai Thakare CHSL. This will therefore give the 13 Petitioners a meaningful choice as and when possession is recovered of one or more of those premises in the Meenatai Thakare CHSL. But if not all premises are recovered or if none are recovered, this does not mean that the 13 Petitioners are forever condemned to be in transit. There is no concept in law or even in common sense of being *permanently in transit*. Thus, once those proceedings are brought to a close, the 13 individual Petitioners will know whether they indeed have a choice of moving into the Meenatai Thakare CHSL. If they do not, then their possession of the PAP transit tenement will be held to be permanent accommodation.

33. Mr Reddy makes a submission that the original tenement holders for Petitioners Nos 1, 4 and 5 were other persons. We will go by the undisputed MCGM list at page 23 of the Shanti Dharma Petition. We will not permit the SRA now to disavow the allotment to Petitioners Nos 1, 4 and 5 in light of this document because at no point are we shown that SRA disputed the entitlement of Petitioners Nos 1, 4 and 5.

34. The prayers in the Shanti Dharma Petition read as follows:

“(a) Be please to direct the respondent No. 2 and 3 herein to remove the encroachment on the proposed road as plan annexed to the **Exhibit A** of the petition as within specific period as this Hon’ble High Court may think deem fit and proper.

(b) Be please to direct the respondent No. 2 and 3 to decide the representation made by the petitioners dated

13th December 2021, 31st March 2022 and 11th April 2022 within specific period as this Hon'ble High Court may think deem fit and proper.”

35. Prayer clause (b) will not survive in view of this judgment.

36. In the Saroj Choube et al Petition, the final reliefs (a) and (b) at page 15 are as follows:

“(a) That this Hon'ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India directing Respondents to allot rehab tenements admeasuring 405 square feet in the nearby vicinity as per the policy of Respondent No. 2 for municipal tenants on the basis of their eligibility in Annexure II dated 24.08.1996 issued by Ward Officer G/North Ward, MCGM;

(b) In the alternative, this Hon'ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India directing Respondents to rehabilitate the Petitioners as per the Development Control and Planning Regulations, 2034 on the basis of their eligibility in Annexure II dated 24.08.1996 issued by Ward Officer G/North Ward, MCGM.”

37. Prayer clause (a) of the Saroj Choube Petition is covered by our directions and observations above. The relief in terms of the alternative prayer clause (b) is therefore moulded by the direction to allot PAP tenements.

38. Prayer clause (a) in the Shanti Dharma Petition is thus worked out in terms of this order, and Rule is made absolute in that Petition subject to our earlier directions.

39. The SRA will permit every one of the 13 Petitioners to inspect the available PAP tenements as listed in the SRA Affidavit and this process is to be completed within three weeks from today by 2nd April 2024. Having regard to these circumstances, we will also not insist on an overnight vacating of the premises but will give the 13 Petitioners sufficient time until 2nd May 2024 to vacate the structures after which the SRA and the MCGM will between themselves coordinate to have the structures removed no later than by 6th May 2024. We accept the undertaking conveyed to us by Dr Chandrachud that the 13 Petitioners will, on the aforesaid basis (i.e., the right of first refusal and so on), elect one or the other of the available PAP tenements.

40. There was a submission, incidentally, that the individual Petitioners would prefer to receive transit rent. But that is not an arrangement that can be made because the slum redevelopment is long since over. Payment of transit rent requires somebody who is obliged to pay and there is no person now on site in an active project on whom this liability can be affixed, thus, the only other option is for the 13 individual Petitioners to accept the PAP tenements but, as we said, on the foregoing basis with the option that is available to them.

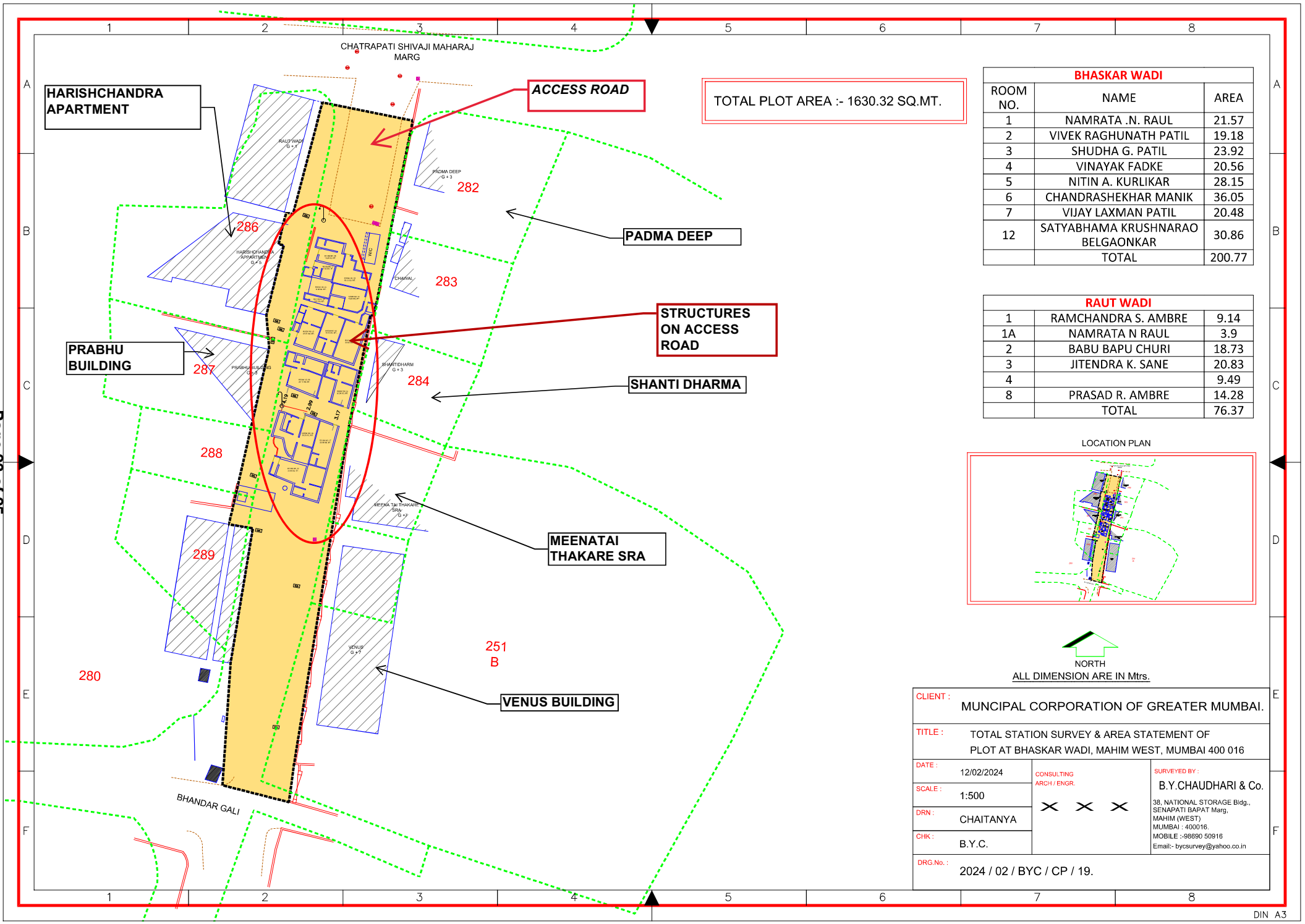
41. In any case, and as a final direction, the SRA will ensure that the Advocates for the 13 Petitioners are kept informed of the progress of the actions being taken by the SRA against the persons in allegedly illicit occupation of the premises. This is being done only to ensure that the 13 Petitioners are not caught unawares by assertions made in the course of those SRA evictions/recovery proceedings.

42. Rule is made absolute in the aforesaid terms. In the facts and circumstances of the case, there will be no order as to costs.

43. If the individual Petitioners have not vacated according to the schedule that we have fixed, liberty to the Shanti Dharma society to apply.

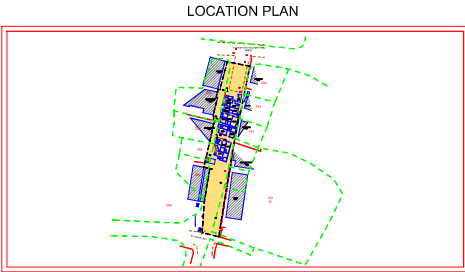
(Kamal Khata, J)

(G. S. Patel, J)



BHASKAR WADI		
ROOM NO.	NAME	AREA
1	NAMRATA .N. RAUL	21.57
2	VIVEK RAGHUNATH PATIL	19.18
3	SHUDHA G. PATIL	23.92
4	VINAYAK FADKE	20.56
5	NITIN A. KURLIKAR	28.15
6	CHANDRASHEKHAR MANIK	36.05
7	VIJAY LAXMAN PATIL	20.48
12	SATYABHAMA KRUSHNARAO BELGAONKAR	30.86
TOTAL		200.77

RAUT WADI		
1	RAMCHANDRA S. AMBRE	9.14
1A	NAMRATA N RAUL	3.9
2	BABU BAPU CHURI	18.73
3	JITENDRA K. SANE	20.83
4		9.49
8	PRASAD R. AMBRE	14.28
TOTAL		76.37



CLIENT : MUNICIPAL CORPORATION OF GREATER MUMBAI.		
TITLE : TOTAL STATION SURVEY & AREA STATEMENT OF PLOT AT BHASKAR WADI, MAHIM WEST, MUMBAI 400 016		
DATE : 12/02/2024	CONSULTING ARCH / ENGR. X X X	SURVEYED BY : B.Y.CHAUDHARI & Co. 38, NATIONAL STORAGE Bldg., SENAPATI BAPAT Marg, MAHIM (WEST) MUMBAI : 400016. MOBILE :-98690 50916 Email:- bycsurvey@yahoo.co.in
SCALE : 1:500		
DRN : CHAITANYA		
CHK : B.Y.C.		
DRG.No. : 2024 / 02 / BYC / CP / 19.		

