

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.18995 OF 2024

Mahadeo Laxman Bhuyal & Ors.

....Petitioners

:Versus:

The State of Maharashtra & Ors.

....Respondents

**WITH
INTERIM APPLICATION NO.1146 OF 2025
IN
WRIT PETITION NO.18995 OF 2024**

Siddhivinayak SRA Co-operative
Housing Society Limited (Prop)

....Applicants

IN THE MATTER BETWEEN

Mahadeo Laxman Bhuyal & Ors.

....Petitioners

:Versus:

The State of Maharashtra & Ors.

....Respondents

**WITH
WRIT PETITION (STAMP) NO.615 OF 2025**

Mahadeo Laxman Bhuyal & Ors.

....Petitioners

:Versus:

The State of Maharashtra & Ors.

....Respondents

**WITH
WRIT PETITION NO.755 OF 2025**

Meenakshi Yashavant Ambekar

....Petitioner

:Versus:

The State of Maharashtra & Ors.

....Respondents

**WITH
WRIT PETITION NO.756 OF 2025**

Shakuntala Laxman Bhoys

....Petitioner

:Versus:

The State of Maharashtra & Ors.

....Respondents

**WITH
WRIT PETITION (STAMP) NO.36613 OF 2024**

Manku Babu Choudhari & Ors.

....Petitioners

:Versus:

The State of Maharashtra & Ors.

....Respondents

**WITH
WRIT PETITION (STAMP) NO.36614 OF 2024**

Ratan Babu Chavan

....Petitioner

:Versus:

The State of Maharashtra & Ors.

....Respondents

**WITH
WRIT PETITION (STAMP) NO.36615 OF 2024**

Laxmi Nanu Dhodade since deceased
through heirs Sanjay Namu Dhodade & Anr.

....Petitioners

:Versus:

The State of Maharashtra & Ors.

....Respondents

**WITH
WRIT PETITION (STAMP) NO.36616 OF 2024**

Mahadeo Shankar Kurhade & Anr.

....Petitioners

:Versus:

The State of Maharashtra & Ors.

....Respondents

**WITH
WRIT PETITION (STAMP) NO.36617 OF 2024**

Dinesh Tukaram Kadav & Anr.

....*Petitioners*

:Versus:

The State of Maharashtra & Ors.

....*Respondents*

**WITH
WRIT PETITION (STAMP) NO.36618 OF 2024**

Parvati Shankar Mahale & Anr.

....*Petitioners*

:Versus:

The State of Maharashtra & Ors.

....*Respondents*

Mr. S. R. Nargolkar i/by Mr. Abhijit B. Kadam, Ms. Sonali G. Sase, Mr. Ashish A. Chavan, for the Petitioners in Writ Petition No. 18995 of 2024 and Writ Petition (Stamp) Nos.36613 of 2024, 36614 of 2024, 36615 of 2024, 36616 of 2024, 36617 of 2024, 36618 of 2024 and 615 of 2025.

Mr. Rajendra V. Kamble, for the Petitioners in Writ Petition Nos. 755 of 2025 and 756 of 2025.

Mr. Vineet Naik, Senior Advocate i/by Ms. Sumanth Anchan, for the Respondent No.6 in Writ Petition No.18995 of 2024, Writ Petition (Stamp) Nos. and Writ Petition (Stamp) Nos.36613 of 2024, 36614 of 2024, 36615 of 2024, 36616 of 2024, 36617 of 2024, 36618 of 2024 & for Respondent No.8 in Writ Petition (Stamp) No.615/2025.

Mr. Atul Damle, Senior Advocate i/by Ms. Uma Palsuledesai, for the Respondents Nos.3 to 5-MMR SRA in Writ Petition No.18995 of 2024 and Writ Petition (Stamp) Nos.36615 of 2024, 36616 of 2024, 36618 of 2024, 36614 of 2024, 36613 of 2024, 36617 of 2024 and 615 of 2025 and Respondent No. 3 in Writ Petition Nos. 755 of 2025 and 756 of 2025.

Mr. Mayur Khandeparkar i/by Ms. Prachi Mulje, for the Respondent No. 12 in Writ Petition (Stamp) No. 615/2025 and Respondent No. 4 in Writ Petition Nos. 755/2025 and 756/2025.

Mr. Vijay D. Patil, Senior Advocate i/by Mr. Abhijit M. Patil, for the Respondent No.2-AGRC in Writ Petition No.18995 of 2024 and Writ Petition (Stamp) Nos. 36615 of 2024, 36616 of 2024, 36618 of 2024, 36614 of 2024, 36613 of 2024, 36617 of 2024 and 615 of 2025.

Ms. Dhruiti Kapadia, AGP for Respondent No.1-State.

CORAM: SANDEEP V. MARNE, J.
Reserved On : 21 March 2025.
Pronounced On : 4 April 2025.

J U D G M E N T :

1) Petitioners claim themselves to be tribals and are opposing implementation of Slum Rehabilitation Scheme on the land occupied by them. They have questioned the Notification declaring the land as Slum Rehabilitation Area and are also aggrieved by orders directing their eviction from structures occupied by them. Petitioners are thus aggrieved by the action treating them as slum dwellers and desire themselves to be treated as allottees/owners of land occupied by them. Their opposition for implementation of slum scheme is thus premised on their claim as allottees of land as tribals. If treated as other slum dwellers most of the Petitioners are eligible to receive benefits of rehabilitation. But they are opposing their comparison with other slum dwellers contending that they are not mere encroachers, but are allottees of plots of land as tribals.

A. THE CHALLENGE

2) The challenge raised in the group of these Petitions can be broadly classified into three categories as under :

- (i) Writ Petition (Stamp) No.615 of 2025 is filed by 13 Petitioners involving a broader issue of challenge to the implementation of Slum Rehabilitation Scheme (SRS) on land bearing

Survey No.502/A. Petitioners therein had filed Appeal before the Apex Grievance Redressal Committee (**AGRC**) for seeking exclusion of land admeasuring 3.39.0 Hectare at Survey No.502/A from the Letter of Intent (**LOI**) issued on 7 December 2022. In their Appeal they had also challenged (a) Notification dated 27 October 2016 by which declaration was made as Slum Rehabilitation Area in respect of the land *inter alia* at Survey No.502/A, (b) Corrigendum to the said Notification dated 30 May 2018, (c) Annexure-II in respect of structure occupiers (d) Letter of Intent (**LOI**) dated 7 December 2022 and (e) all permissions granted for implementation of SRS. The Appeal has been dismissed by AGRC by order dated 12 March 2025, which is subject matter of challenge in Writ Petition (Stamp) No.615 of 2025.

- (ii) Writ Petition Nos. 755 of 2025 and 756 of 2025 challenge eviction orders passed by the Competent Authority under Sections 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (**Slum Act**) and the Order passed by AGRC dated 4 December 2024 confirming the same. The Petitioners in these two petitions have also challenged the Notification dated 27 October 2016 declaring the land bearing Survey No. 502/A as Slum Rehabilitation Area on the ground that it is impermissible to implement slum scheme on a *Gairan* land.
- (iii) The rest of the seven Petitions challenge eviction orders passed by the Competent Authority under Sections 33 and 38 of the Slum Act and orders passed by AGRC dismissing their Appeals by orders dated 4 December 2024.

B. FACTS

3) Petitioners claim to be tribals, who are occupants of structures on plot of land bearing Survey No.502/A (part) situated at Village Panch Pakhadi, Taluka and District Thane, which admeasures 3.39.0 Hectare. The said land at Survey No.502/A was initially recorded in revenue records as *Gairan* (*Gurcharan*) land. According to Petitioners in Writ Petition (Stamp) No.615 of 2025, the State Government had allotted portion of lands individually in their favour by passing various orders in the year 1949. That the said land was divided into plots of various sizes and names of 22 Tribal persons were recorded in respect of said plots of land. It is contended that the allotment of plots was for construction of houses and that therefore orders were passed by the Collector on 27 March 1950 and 30 March 1950 granting permission for non-agricultural use of the said plots of land. Reliance is placed by the said Petitioners on Village Specimen No.2 Extracts issued by Talathi Village Panch Pakhadi in which allotment of the plots in favour of Petitioners/their ancestors has been evidenced. It is their case that despite availability of such direct evidence of allotment of plots, names of the concerned Petitioners were deliberately not recorded in the revenue records by taking disadvantage of their social, educational and financial background. That various representations were made by them from time to time for recording of their names in pursuance of order passed by Sub Divisional Officer (**SDO**) in 1949 and by Collector in the year 1950. That the concerned Petitioners approached Maharashtra State Human Rights Commission on 13 November 2007 complaining about non-mutation of their names in the revenue records. The Human Rights Commission issued notices to the Collector and during the course of hearing before the Commission, a report was submitted by Collector on

1 March 2008 thereby giving assurance to the Petitioners that their names would be mutated in revenue records. Noting the said assurance and the report, State Human Rights Commission closed the case on 3 March 2008. It is Petitioners' case that towards implementation of the report submitted before the Commission, the Collector called for report from Tahsildar and Circle Officer, who submitted their reports, but no action was taken for mutating the names of concerned Petitioners to the revenue records in respect of the lands allotted in their names.

4) It appears that unauthorized slum structures mushroomed on land bearing Survey No.502/A and other neighboring lands. Slum Rehabilitation Authority (**SRA**) conducted site inspection/survey on 14 May 2015 with intention of declaration of Slum Rehabilitation Scheme at the subject land. SRA issued public notice inviting suggestions and objections on 3 June 2015 for declaring subject land as slum rehabilitation area. The Slum Rehabilitation Authority had finalized and approved Slum Rehabilitation Scheme for Thane Municipal Corporation under provisions of Section 3B(3) of the Slum Act, which was published in the Official Gazette on 17 March 2016. CEO/SRA issued Notification under Section 3C(1) of the Slum Act notifying *inter alia* land bearing Survey No.502/A (Pt) admeasuring 33,900 square meters as Slum Rehabilitation Area. By Corrigendum dated 30 May 2018 the area of one of the lands bearing Survey No.83/4 (Pt) was rectified. Annexure-II was prepared on 6 May 2022 in respect of the structures on land at Survey No.502/A where 1848 hutments were existing. SRA issued Letter of Intent (**LOI**) in favour of Respondent No.6-Developer for implementation of SRS in respect of the lands bearing Survey Nos.502/A (pt), 67, 83/4, 84/1 to 7 (Pt) totally admeasuring 41,527.35 square meters. Intimation of Disapproval (**IOD**) for Rehab Building No.1 was issued on 7 June 2023.

5) In pursuance of demand raised by some of the Petitioners, CEO/SRA addressed a letter to Collector, Thane, on 12 January 2024 seeking information about alleged allotment, if any, in favour of tribal persons and enquired about applicability of Sections 36 and 36A of the Maharashtra Land Revenue Code, 1960 (**the Code**) to the land. Tahsildar, Thane issued letter dated 16 February 2024 to Collector, Thane, clarifying that land bearing Survey No.502/A was never allotted to any tribal persons and that therefore provisions of Sections 36 and 36A of the Code were not applicable. In the meantime, Petitioners in Writ Petition (Stamp) No.615 of 2025 filed representation before the Collector, Thane on 8 April 2024 requesting for recording of their names in the revenue records based on orders passed by SDO, Thane in 1949, Collector, Thane in 1950 and Human Rights Commission on 3 March 2008.

6) It appears that the Developer started implementation of SRS by vacating various slum structures on the plots of the land. On 18 June 2024 the Developer addressed letter to the Petitioners for seeking vacant possession of their respective structures. Revised LOI was issued on 21 June 2024 thereby including certain additional portion of the land in the scheme thereby increasing the area of land at 48,550.28 square meters.

7) Since the Petitioners failed to handover possession of their respective structures, Respondent No.6 approached the Competent Authority and Deputy Collector for eviction of the Petitioners under provisions of Sections 33 and 38 of the Slum Act. On 31 July 2024, IOD for Rehab Building Nos.2 and 3 and Sale Building Nos.1 to 5 was issued. Further the commencement certificate for Rehab Building Nos.1 to 3 and Sale Building Nos.1 to 5 upto plinth level was issued on 9 August 2024.

8) In the above background Petitioners in Writ Petition (Stamp) No.615 of 2025 filed Appeal No.57 of 2024 under Section 35 of the Slum Act seeking exclusion of land admeasuring 3.39 Hectares at Survey No.502/A from Letter of Intent dated 7 December 2022 and challenged the said LOI dated 7 December 2022, Notification of declaration of Slum Rehabilitation Scheme dated 27 October 2016, Corrigendum dated 30 May 2018 and all permissions issued in favour of Developer. On 24 September 2024 the Competent Authority passed orders under provisions of Sections 33 and 38 of Slum Act directing Petitioners to handover possession of their respective structures. On 27 September 2024 AGRC granted stay to the operation of LOI in Appeal No.57 of 2024. Petitioners simultaneously filed Appeals before AGRC challenging orders passed by Competent Authority under Sections 33 and 38 of the Slum Act. On 7 October 2024 Competent Authority issued 48 hours eviction notice directing Petitioners to handover possession of their respective structures. Aggrieved by the said 48 hours notices, Petitioners filed various Petitions in this Court complaining that eviction orders could not be implemented during pendency of Appeals preferred by them before AGRC challenging orders passed under Sections 33 and 38 of the Slum Act. This Court disposed of the said Petitions by order dated 14 October 2024 requesting AGRC to decide the Appeals expeditiously and directing that any adverse order passed against the Petitioners should not be implemented for a period of two weeks. On 13 December 2024, AGRC vacated the stay granted vide order dated 27 September 2024 in Appeal filed by Petitioners in Writ Petition (Stamp) No.615 of 2025 challenging the LOI. Aggrieved by vacation of the interim order dated 13 December 2024, Writ Petition (Stamp) No.615 of 2025 is filed by 13 Petitioners.

9) In the meantime, AGRC dismissed Appeals preferred by Petitioners on 4 December 2024 in which orders of eviction under Sections 33 and 38 of the Slum Act were challenged. Aggrieved by dismissal of their Appeals by order dated 4 December 2024 balance 9 Petitions are filed.

10) During the course of hearing of all the Petitions, this Court directed conduct of survey of structures occupied by Petitioners and other similarly situated tribals by the Engineer of SRA by recording names of occupants and area of structures in their respective possession. Accordingly, the survey has been conducted by SRA and report of the survey has been filed on record.

11) By further order passed by this Court on 24 February 2025 AGRC was requested to decide Appeal No.57 of 2024 filed by Petitioners in Writ Petition (Stamp) No.615 of 2025 in which LOI, Notification dated 27 October 2016, Annexure-II and all permissions were challenged. By order dated 12 March 2025, AGRC has dismissed Appeal No.57 of 2024. Writ Petition (Stamp) No.615 of 2025 was permitted to be amended by order dated 18 March 2025 to set up a challenge to AGRC's order dated 12 March 2025. This is how order passed by AGRC on 12 March 2025 is also made subject matter of challenge in Writ Petition (Stamp) No.615 of 2025.

12) In the above factual background, these 10 petitions have been filed challenging orders passed by AGRC on 4 December 2024 and 12 March 2025.

C. SUBMISSIONS

13) Mr. Nargolkar, the learned counsel appearing for Petitioners in Writ Petition (Stamp) No.615 of 2025, Writ Petition No.18995 of 2024, Writ Petition (Stamp) Nos.36613 of 2024, 36614 of 2024, 36615 of 2024, 36616 of 2024, 36617 of 2024 and 36618 of 2024 would submit that the AGRC has grossly erred in dismissing Appeal No.57 of 2024 filed by Petitioners in Writ Petition (Stamp) No.615 of 2025. He would submit that the AGRC has completely failed to appreciate the fundamental position in law that the very Notification dated 27 October 2016 issued by SRA under Section 3C(1) of the Slum Act declaring land bearing Survey No.502/A (part) as slum rehabilitation area is *ab initio void* and issued in total ignorance of the fact that Petitioners in Writ Petition (Stamp) No.615 of 2025 and others similarly situated tribals (total 34 in number) are actually allottees and owners of plots of land allotted to them. That the land is erroneously declared as slum rehabilitation area under illegal assumption that the same is owned by State of Maharashtra. That the Petitioners in Writ Petition (Stamp) No.615 of 2025 had produced voluminous documents in favour of their claim of allotment of lands and occupation of houses by them which are constructed on such allotted lands. That the said Petitioners are erroneously treated as unauthorized occupants when in fact they are lawful occupiers and owners of land allotted to them. That the said Petitioners are erroneously mixed up with other slum dwellers ignoring the position that they are valid holders of land in their capacity as tribals. He would submit that the Developer is taking undue advantage of the position of names of the said Petitioners not being mutated to the revenue records for the purpose of illegal conversion of *Gairan* land into ordinary land belonging to State Government for implementation of SRS. He would submit that

Petitioners have been taking repeated efforts for ensuring mutation of their names to the plots of lands. He would take me through the proceedings initiated before Human Rights Commission as well as orders passed therein to illustrate as to how assurance was given by the Collector for recording names of those Petitioners in the revenue records. He would submit that if the said assurances were to be fulfilled, names of Petitioners would have been reflected in the revenue records thereby excluding the plots of land allotted in the name of said Petitioners from being included in the Notification dated 27 October 2016. He would therefore submit that the Petitioners in Writ Petition (Stamp) No.615 of 2025 had rightly prayed for exclusion of land allotted to them from Notification dated 27 October 2016, LOI dated 7 December 2022, Annexure-II dated 6 May 2022 and all permissions granted in favour of the Developer. He would submit that slum scheme cannot be implemented on land owned by the said Petitioners against their wish. He would submit that this is a classic case of valid holders of lands being illegally treated as slum dwellers and instead of letting them exploit their ownership and occupancy rights in respect of respective plots, they are called upon to submit documents of eligibility for being declared as eligible slum dwellers for allotment of tiny residential units in rehab portion of the building.

14) Mr. Nargolkar would strenuously rely upon copies of Village Specimen No.2 issued by Talathi of Village Panch Pakhadi on 4 September 1996 to demonstrate that out of *Gairan* land bearing Survey No.502/A various plots were allotted to the Petitioners/their ancestors in Writ Petition (Stamp) No.615 of 2025. To illustrate, he would submit that the said village Specimen No.2 refers to details of allotment orders passed by the Collector on 27 March 1950 and 30 March 1950. He would

submit that the said village Specimen No.2 standing in the name of the Petitioners cannot be ignored altogether as the same is maintained by Revenue Authorities. That what remained to be done was to merely prepare separate 7/12 extracts for mutation of names of Petitioners in respect of the area of plots allotted to each of them. He would submit that the father of Petitioner No.1 in Writ Petition (Stamp) No.615 of 2025 Shri Laxman Bendu Ghamale was allotted plot No.12 admeasuring 195 square *var* of land and instead of recognizing entitlement of the said Petitioner to exploit his rights *qua* the said plot, he is being treated as a slum dweller for the purpose of being allotted a rehab tenement on par with other unauthorized slum dwellers, that too after proving his eligibility.

15) Mr. Nargolkar would take me through various documents such as electricity bills, receipt of payment of non-agricultural tax, Municipal Corporation Assessment, receipt of water supply, special notice for Municipal Assessment etc. in support of his contention that Petitioners of Writ Petition (Stamp) No.615 of 2025 can, by no stretch of imagination, be treated as mere slum dwellers. He would particularly highlight the receipt of payment of water charges by the then Thane Municipal Council (before formation of Thane Municipal Corporation) in the name of father of Petitioner No.1 issued in the year 1974. He would submit that the fact that the then Municipal Council had installed water meter to the house of father of Petitioner No.1 would leave no manner of doubt that Petitioner No.1 cannot be treated as mere slum dweller. In any case, according to Mr. Nargolkar when each of the Petitioners in Writ Petition (Stamp) No.615 of 2025 are armed with Village Specimen No.2 evidencing allotment of land in their names, it is inconceivable that a slum scheme can be implemented by ignoring the claim of allotment of

land in favour of the said Petitioners. He would submit that though all these documents were produced before the AGRC, the same are altogether ignored. That AGRC has not decided the fundamental issue of permissibility to implement slum scheme by ignoring the claim of Petitioners being lawful holders of land. That the very jurisdictional fact for declaration of land as slum is absent in the present case.

16) Mr. Nargolkar would further submit that since the very Notification dated 27 October 2016 read with Corrigendum dated 30 May 2018 is *ab initio void*, implementation of slum scheme by issuance LOI in favour of the Developer is *ex-facie* illegal and liable to be set aside. He would submit that challenge to the said Notification and Corrigendum has not even been considered or decided by AGRC and that therefore the proceedings deserve to be remanded to the AGRC, whose order suffers from gross non-application of mind.

17) Mr. Nargolkar would further submit that no enquiry is conducted under the provisions of Section 4 of the Slum Act for declaration of land bearing Survey No.502/A as slum land. That the land in occupation of Petitioners does not fulfill any of the conditions specified under Section 4 of the Slum Act. Therefore, the Notification issued under the provisions of Section 3C(1) of the Slum Act in absence of the land being declared as a 'slum area' under Section 4 of the Act is clearly illegal.

18) So far as the rest of the Petitions involving challenge to the orders passed under Sections 33 and 38 of the Slum Act are concerned, Mr. Nargolkar would submit that the issuance of eviction orders without considering Petitioners' claim of impermissibility of implementation of slum scheme is like putting cart before the horse. That jurisdiction under

Sections 33 and 38 of the Slum Act is misused by illegally treating Petitioners as mere slum dwellers ignoring the position that they are lawful holders of land in their capacity as tribals. He would therefore submit that the eviction orders passed under Sections 33 and 38 of the Slum Act are liable to be set aside. Lastly, Mr. Nargolkar would submit that mere progress in implementation of the slum scheme by the Developer cannot be a reason for bulldozing of lawful claims of poor tribals, who are being denied their right to establish claims in respect of lands allotted to them. He would therefore pray for allowing the Petitions by setting aside Notification dated 27 October 2016, Corrigendum dated 30 May 2018, LOI dated 7 December 2022, Annexure II dated 6 May 2022 and all permissions granted in favour of Respondent No.6 in respect of lands allotted in the name of Petitioners of Writ Petition (Stamp) No.615 of 2025. He would further pray that till the claims in respect of the Petitioners of Writ Petition (Stamp) No.615 of 2025 are decided, the SRA and the Developer cannot be permitted to go ahead with the slum scheme by treating the Petitioners as mere slum dwellers. He would therefore submit that the eviction orders passed under Sections 33 and 38 of the Slum Act are also required to be set aside.

19) Mr. Kamble, the learned counsel appearing for the Petitioners in Writ Petition Nos.755/2025 and 756/2025 would submit that his clients are tribals, who are occupying *Gairan* land for the last more than five decades. He would submit that the tribals are allowed to occupy *Gairan* land and are notified as permitted occupants. That the Slum Scheme is illegally being implemented on *Gairan* land. That no other person apart from identified persons can be permitted to encroach upon or occupy *Gairan* land. That therefore implementation of slum

scheme on *Gairan* land is otherwise impermissible in law. He would rely upon judgment of the Apex Court in *Jagpal Singh and others Versus. State of Punjab and others*¹ in support of the contention that it is impermissible to regularize encroachment upon *Gairan* land and that regularization is permitted only where the land is occupied by members of Scheduled Caste/Scheduled Tribe. He would also rely upon Government Resolutions dated 12 July 2011 and 4 April 2022 in support of his contention that only tribals can be permitted to occupy *Gairan* lands. He would submit that the Notification dated 27 October 2016 declaring land bearing Survey No.502/A as slum rehabilitation area is *ab initio void*. That the AGRC has not even decided the issue of validity of the said Notification in the Appeals preferred by the Petitioners. He would submit that the Petitioners have already filed proposal for regularization of their occupation to the Collector and that the same are under consideration. He would submit that in case of one of the tribals, the regularization proposal is rejected which rejection is challenged before the Division Bench of this Court. That Petitioners are erroneously being treated as encroachers by comparing them with slum dwellers without appreciating the nature of their possession. That they are occupying the lands in their capacity as tribals for over last four decades which is impermissible in view of Apex Court judgment, as well as the G.R.s dated 4 April 2022 and 12 July 2011. He would submit that the land bearing Survey No.502/A was always entered in revenue records as *Gairan* land and that the mutation entry was wrongfully changed in the name of State of Maharashtra only for the purpose of implementation of Slum Scheme in connivance with the developer. That though the Writ Petition Nos.755 and 756/2025 are filed by the two Petitioners, there are total 34 tribals who are occupying the land by construction of houses. He would however clarify that out of the 34 tribals, only 17 are litigating,

1 (2011) 11 SCC 396

whereas rest 17 have submitted their documents of eligibility and have been treated as eligible for implementation of the Slum Scheme. Mr. Kamble would submit that the very implementation of the Slum Scheme on land validly occupied by tribals is *ab initio void*. The eviction proceedings initiated under Sections 33 and 38 of the Slum Act were clearly not maintainable. He would therefore pray for setting aside such eviction orders.

20) The petitions are opposed by Mr. Damle, the learned senior advocate appearing for the Slum Rehabilitation Authority. He would submit that the Notification declaring various lands including Survey No.502/A(Pt) as slum rehabilitation area was issued on 27 October 2016. He would submit that the Notification under the provisions of Section 3C(1) of the Slum Act can be issued even in absence of declaration of any area as slum under the provisions of Section 4 of the Slum Act. He would submit that the provisions of Section 3C(1) override the provisions of Section 4. He would submit that the period of limitation for challenging declaration of land as slum rehabilitation area under the provisions of sub-section (2) of Section 3C of the Slum Act is only 30 days whereas the Appeal challenging the notification dated 27 October 2016 was filed after lapse of period of 8 long years. He would submit that challenge to the Notification issued under Section 3C(1) can be raised only by a person having interest in the land. That Petitioners are admittedly not the owners of the land and are merely occupying the same unauthorisedly. That therefore they did not otherwise have locus to challenge the Notification dated 27 October 2016. He would also question the prayer made by the Petitioners in Writ Petition (St.) No. 615/2025 for exclusion of entire land admeasuring 3.39 Hectares from the Notification by submitting that the prayer itself was faulty and baseless. He would

submit that except Village Specimen No.2, no other document of title could be produced by the Petitioners. That it is conclusively proved that the names of the Petitioners have not been mutated to the revenue records in any manner. He would submit that the AGRC has taken all the aspects into consideration while rejecting the baseless claims of the Petitioners.

21) Mr. Damle would further submit that in pursuance of the order passed by this Court on 15 January 2025, a survey has been conducted by the Engineers of SRA, and he would invite my attention to the Affidavit dated 6 February 2025 alongwith which, the entire records of survey together with photographs have been appended. He would submit that in the said survey, all the details of structures occupied by the Petitioners and similarly placed persons have been noted. The documents produced by them justifying their occupation has also been noted in the said survey. He would accordingly pray for dismissal of the petitions.

22) Mr. Naik, the learned senior advocate appearing for the Developer would submit that the appeal preferred by the Petitioners in Writ Petition (St) No. 615 of 2015 was beyond the period of limitation prescribed under Section 3C(2) of the Slum Act. He would submit that Petitioners present minuscule number of occupants of structures on land bearing Survey no. 502/A which has total 1848 slum dwellers. If the prayer in Appeal No.57/2024 is appreciated, the same envisages deduction of the entire area of 3.39 Hectares of Survey No.502/A from the slum scheme, which will affect the fate of 1848 slum dwellers. He would therefore submit that the prayer for exclusion of the entire land admeasuring 3.39 Hectares in Survey No.502/A was otherwise clearly baseless and incapable of even being entertained on merits.

23) So far as the total claim of the Petitioners in Writ Petition (St.) No.615 of 2025 is concerned, Mr. Naik would take me through various documents produced alongwith the Affidavit in Reply of Respondent No. 6-Developer. He would submit that the 7/12 extract depicts the name of the State Government as the holder with notification dated 3 September 2016 being included in the 'other rights' column. He would rely upon Letter of Intent dated 7 December 2022 issued in the name of the Developer, in which it is clarified in para-6 that the land belongs to the Government of Maharashtra. He would rely upon letter dated 16 February 2024 of Tahsildar addressed to the Collector, in which it is clarified by the Tahsildar that no portion of land in Survey No.502/A is entered in the name of any tribal person and that therefore the provisions of Sections 36 and 36A of the Code are inapplicable. He would submit that the CEO/SRA had raised a query with the Collector by letter dated 12 January 2024 about application of provisions of Sections 36 and 36A of the Code to the land in question and that the Collector had clarified by letter dated 15 October 2024 that the said provisions are inapplicable as no rights of any tribal person are recognized *qua* any portion of the said land. Mr. Naik would also rely on letter dated 14 November 2024 of the Tahsildar by which the proposal submitted by Petitioner No.1-Mahadev Laxman Bhuyal for inclusion of his name in the revenue records was rejected. Mr. Naik would further submit that the said Petitioner-Mahadev Laxman Bhuyal had filed a Suit bearing Regular Civil Suit No.149/1986 in the Court of Civil Judge Junior Division, Thane seeking eviction of one Ashok Baburao Basankar, which came to be dismissed by decree dated 8 April 2010 holding that the said Petitioner does not have a semblance of right in respect of the land bearing Survey No.502/A. That the Appeal preferred by him was dismissed on 1 July 2014. Mr. Naik would therefore submit that the claim of title of Mahadev Laxman Bhuyal is actually negated in collateral

proceedings by the Civil Court.

24) Lastly, Mr. Naik would submit that much water has flown under the bridge as the SRS has progressed further after issuance of LOI dated 7 December 2022. He would submit that Respondent No.6-Developer has been issuing LOI in respect of the total land admeasuring 48,520 sq.mtrs which is in addition to the land covered by Survey No. 502/A. That out of the total 2319 huts on the said land, 2255 huts have been demolished and only 64 huts remain to be demolished. He would invite my attention to the photographs as well as map of the site to indicate as to how substantial progress has taken place at the site for implementation of slum scheme. He would submit that reliance of the Petitioners on Village Specimen No.2 is otherwise baseless as the same is made only for the limited purpose of noting levy of agricultural tax in respect of the land and the same is limited period upto 31 July 1991. That there is no document on record to indicate that any further entries for the year 1991 were made in the name of area of the occupants. He would submit that even if the area of all alleged plots as per the Village Specimen No.2 relied upon by the Petitioner is added up, the same is only 4815 sq.mts, whereas the total land for implementation of the slum scheme in Survey No. 502/A(Pt) is 33,200.58 sq.mtrs. Despite this position, Petitioners raised a baseless plea for exclusion of the entire land admeasuring 3.39 hectares in Survey No.502/A from the ambit of Slum Scheme. Lastly, Mr. Naik would submit that in pursuance of order passed by this Court on 15 January 2025, survey has been conducted by the Engineers of SRA in which it has been found that only 42 structures are yet to be demolished out of which 21 structure are eligible as on 1 January 2000. Additionally, 12 structures can be considered as *Sashulk* eligible (entitled to rehab tenement on payment of costs of construction) as per GR of 2011 and about 9 structures would be ineligible on account

of lack of documentary evidence prior to 2011. He would thus submit that the entire scheme cannot be halted on the basis of baseless and belated claims raised by minuscule number of occupants merely because they claimed status as tribals. He would submit that for declaration of land as slum rehabilitation area under Section 3C(1) of the Slum Act, notification of land as 'slum area' under Section 4 of the Act is not necessary. In support of his contention, Mr. Naik would rely upon judgment of Division Bench of this Court in *Santosh Tukaram Patil and others Versus. Slum Rehabilitation Authority and others*². He would submit that the Division Bench of this Court has held that declaration under Section 3C(1) of Slum Act can be made in the absence of declaration of any land as slum area under Section 4. He would accordingly pray for dismissal of the petition.

25) Mr. Khandeparkar, the learned counsel appearing for the Society would submit that this Court may not interfere in the impugned order of the AGRC at this belated stage considering the progress made at the site. He would invite my attention to the findings recorded by the AGRC in para-50 of its order recording that out of 2318 slum structures, 2043 structures have been demolished and only 258 structures are yet to be demolished. That only 170 occupants out of the said 285 structures are refusing to co-operate. He would rely upon judgment of the Apex Court in *Mansoor Ali Farida Irshad Ali & Others Versus. The Tahsildar-1, Special Cell & Others*³ in support of his contention that that it would not be otherwise prudent to make interference in the Slum Scheme considering the progress made at the site. He would also rely upon judgment of Division Bench of this Court in *Santosh Madhukar Bhondve*

2 2023 SCC OnLine Bom 2552

3 Civil Appeal arising out of SLP (C) No.1665/2023 decided on 27 February 2025.

*and others Versus. State of Maharashtra and others*⁴ in support of his contention that Section 22A of the Code cannot be a bar for implementation of Slum Scheme on *Gairan* land. Mr. Khandeparkar would also rely upon judgment of Division Bench in *Santosh Madhukar Bhondve* in support of his contention that once the assessment is made by the AGRC about existence of circumstances for making declaration under Section 3C(1) of Slum Act, writ court cannot enter into the realm of reassessment of existence of such circumstances. He would submit that the objection of non-existence of jurisdiction raised by the Petitioners is baseless as it is Petitioners who have invoked the jurisdiction of the AGRC. That the delay in filing of the Appeals is fatal in the present case as the slum scheme has progressed substantially. Lastly, he would submit that any interference by this Court at this stage would hamper the rights of thousands of slum dwellers who have vacated their structures and are awaiting the construction of rehab tenements for them.

26) Ms. Kapadia, the learned AGP would support the impugned orders and seek dismissal of the Petitions.

D. REASONS AND ANALYSIS

27) There are two sets of petitions filed by the Petitioners. The main petition, which is argued by Mr. Nargolkar is Writ Petition (Stamp) No. 615/2025, which challenges the order passed by the AGRC on 12 March 2025 dismissing Appeal No.57/2024 which was filed by Petitioners therein. Appeal No.57/2024 raised much broader issues relating to legality of Notification dated 27 October 2016, by which the land bearing Survey No.502/A was declared as 'Slum Rehabilitation Area', Corrigendum to the said Notification issued on 30 May 2018,

4 Writ Petition No. 3098 of 2021 decided on 12 September 2024

Annexure-II prepared on 6 May 2022, LOI issued in favour of the Developer on 7 December 2022, as well as all permissions granted for implementation of slum scheme. The second set of petitions arise out of orders passed by the Competent Authority under the provisions of Sections 33 and 38 of the Slum Act directing eviction of the Petitioners involved in those petitions. The order passed by the Competent Authority became subject matter of challenge in Appeals preferred before the AGRC, which have been dismissed by the AGRC vide orders dated 4 December 2024.

28) It would therefore be necessary to first consider Writ Petition (St.) No. 615/2025 which raises broader challenge to the very implementation of the Slum Scheme on the land bearing Survey No.502/A. It is this petition, which has been mainly argued as a lead petition by Mr. Nargolkar. As observed above, the petition was initially filed as the Petitioners were aggrieved by vacation of interim stay by the AGRC vide order dated 13 December 2024. It appears that earlier, AGRC had stayed the LOI dated 7 December 2022 by its order dated 27 September 2024. The stay was however vacated by order dated 13 December 2024, which prompted filing of Writ Petition (St.) No.615/2025. Since the Appeal remained pending, this Court requested AGRC to decide the Appeal by order dated 24 February 2025. The AGRC has rejected Appeal No.57/2024 by its order dated 12 March 2025. The Petitioners have been permitted by this Court by order dated 18 March 2025 to amend Writ Petition (St.) No.615/2025 to incorporate challenge to the order dated 12 March 2025, as it was submitted on behalf of the Petitioners that the grounds raised in the petition would also cover challenge to the final order dated 12 March 2025. Accordingly, Writ Petition (St.) No.615/2025 has been amended and AGRC's final order dated 12 March 2025 has been challenged.

29) Appeal No.57/2024 was filed under the provisions of Section 35 of the Slum Act. Under the provisions of clause (b) of sub-section (1A) of Section 35, Appeal lies before the AGRC against any notice, direction, circular, decision, order, permission or approval issued or given by CEO/SRA. Section 35 of the Slum Act 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 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.

30) Invoking the jurisdiction under the provisions of Section 35(1A)(b) of Slum Act, Appeal No.57/2024 was filed by the Petitioners in Writ Petition (St.) No.615/2025 seeking following prayers :

19. In the circumstances, the Appellants pray that:-

a) this Hon'ble Authority be pleased to call the record and proceedings;

b) This Hon'ble Court be pleased to carve out the area of land being Survey No.502/A, admeasuring 3.39.0 HR situated at Paach Pakhadai, Taluka & District Thane out of the total area mentioned in Letter of Intent dated 07.05.2022 issued by the Respondent No.1.

c) This Hon'ble Court be pleased to modify the Letter of Intent (LoI) dated 07.12.2022 issued by Respondent No.1 and Notification dated 27.10.2016, Corrigendum dated 30.05.2018, Annexure-II dated 06.05.2022 and other permissions granted in favour of Respondent No.6 by excluding the area admeasuring 3.39.0 HR out of Survey No.502/A (Pt) situated at Paach Pakhadai, Taluka & District Thane.

d) this Hon'ble Authority be pleased to quash and set aside the Notification dated 27.10.2016, Corrigendum dated 30.05.2018, Annexure-II dated 06.05.2022 and Letter of Intent (LoI) dated 07.12.2022 issued by Respondent No.1 to the extent of Appellants land bearing Survey No.502/A, admeasuring 3.39.0 HR situated at Paach Pakhadi, Taluka & Dist. Thane.

e) pending the hearing and final disposal of the present Appeal, this Hon'ble Authority be pleased to grant stay to the operation, implementation and effect of the Notification dated 27.10.2016, Corrigendum dated 30.05.2018, Annexure-II dated 06.05.2022 and Letter of Intent (LoI) dated 07.12.2022 issued by Respondent No.1 to the extent of Appellants land bearing Survey No.502/A, admeasuring 3.39.0 HR situated at Paach Pakhadi, Taluka & Dist. Thane;

f) this Hon'ble Court be pleased to grant ad-interim relief in terms of prayer clause (e) above;

g) to pass any such other and further orders as your Lordship deem fit and proper in the facts and circumstances of the case.

h) Cost be granted

31) Thus, in Appeal No. 57/2024, the main prayer of the Petitioners was to carve out area of land admeasuring 3.39 Hectares in Survey No.502/A from the LOI dated 7 December 2022. The LOI dated 7 December 2022 has been placed on record by Respondent No.6-Developer alongwith its Affidavit-in-Reply, which is for implementation of Slum Rehabilitation Scheme on land bearing Survey No. 502/A(Pt), 67, 83/4, 84/1 to 7 (Pt) at Village-Panch Pakhadi, Thane. Thus, what Petitioners desired in their Appeal No. 57/2023 is to exclude the entire area of Survey No. 502/A from the ambit of LOI dated 7 December 2022. The area of land bearing Survey No.502/A as per 7/12 extract is 3.39 Hectares. Petitioners also challenged Notification dated 27 October 2016 issued under the provisions of Section 3C(1) of the Slum Act. Under Section 3C(1) of the Slum Act, the CEO/SRA is empowered to make a declaration of any land as 'Slum Rehabilitation Area' for implementation of SRS. Section 3C provides thus :

3C. Declaration of a slum rehabilitation area.

(1) As soon as may be, after the publication of any Slum Rehabilitation Scheme, the Chief Executive Officer on being satisfied about the circumstances in respect of any land, whether or not previously declared as slum area, justifying its declaration as the Slum Rehabilitation Area which may include community economic activity area, for implementing the Slum Rehabilitation Scheme, shall after giving the land owners, including any public authorities or local bodies under the State Government constituted under any law enacted by the State Legislature, thirty days notice and after giving a reasonable opportunity of being heard, by an order published in the Official Gazette, and thereafter within forty-five days, declare such land to be a "Slum Rehabilitation Area". The order declaring the Slum Rehabilitation Area (hereinafter referred to as "the slum rehabilitation order"), shall also be given wide publicity in such manner as may be specified by the Chief Executive Officer of the Slum Rehabilitation Authority. Thereafter, notwithstanding anything contained in any law for the time being in force, in such Slum Rehabilitation Area, the permission or the No Objection Certificate of the land owning authority or agency shall not be required:

Provided that, only in respect of any land which is required for Vital Public Project purpose, as per orders of the State Government and where the State Government either directly or through any public authority has undertaken the responsibility of relocation and rehabilitation of the protected and other

occupiers of the building, then the Chief Executive Officer shall, exclude the land required for Vital Public Project from the Slum Rehabilitation Area and issue an order to omit such land from the Slum Rehabilitation Area. Where the State Government either directly or through any public authority has undertaken the responsibility of relocation and rehabilitation of the protected and other occupiers of the building, such public authority shall prepare the Scheme of such rehabilitation or relocation and get it approved by the Chief Executive Officer within the period specified in the Scheme which shall not be more than ninety days.

(2) Any person aggrieved by the order of the Chief Executive Officer may, within thirty days of the publication of such slum rehabilitation order, prefer an appeal to the Apex Grievance Redressal Committee. The decision of the Apex Grievance Redressal Committee in such appeal shall be final.

(3) On the completion of the Slum Rehabilitation Scheme, the Slum Rehabilitation Area shall cease to be such area.

32) The Notification dated 27 October 2016 was issued by the CEO/SRA declaring 12 parcels of land in Village-Panch Pakhadi as 'Slum Rehabilitation Area' under the provisions of Section 3C(1) of the Slum Act. For the purpose of the present petition, only 4 parcels of the land at Serial Nos.1, 2, 9 and 10 [Survey Nos. 67, 502/A(Pt), 83/4(Pt), 84/1 to 7 (Pt)] are relevant. Out of the said four parcels of lands, Petitioners are concerned with only land admeasuring Survey No.502/A (Pt) and they desired exclusion of the entire land admeasuring 3.39 Hectares from the ambit of the slum scheme and accordingly challenge to the Notification dated 27 October 2016 was raised in Appeal No.57/2024.

33) Under the provisions of sub-section (2) of Section 3C, Notification issued under the provisions of sub-section (1) can be challenged in Appeal before the AGRC within a period of 30 days from the date of publication of the said Notification. In the present case, however the Notification dated 27 October 2016 was challenged after lapse of period of 8 long years by filing Appeal No.57/2024 on

2 September 2024. It appears that an application for condonation of delay was filed. By order dated 27 September 2024, delay in the filing the Appeal was condoned. Since delay in filing the appeal was condoned, the Appeal was required to be heard on merits and the same has been decided on merits. The issue of delay, rather laches, on the part of Petitioners in filing the Appeal challenging Notification after 8 long years is highlighted by the contesting Respondents more for demonstrating the adverse effect such challenge would have to the implementation of the slum scheme, which has progressed substantially in the last 8 long years. This issue is being discussed in the latter part of the judgment.

34) The entire thrust of submissions on behalf of the Petitioners in Writ Petition (St.) No.615/2024 is that they actually are the allottees/grantees of respective plots of land and that therefore the slum scheme cannot be implemented on the portion of lands allotted in their names. It is the case of those Petitioners that being members of tribal community, the State Government has allotted plots of land for construction of houses to the tribal-Petitioners during the years 1949-50 and entries to that effect have already been made to the revenue records. The sheet anchor of claims of those Petitioners is Village Specimen No.2 issued in the names of their ancestors on the basis of which, it is sought to be contended that there is direct evidence of allotment of plots of land. I have gone through the copies of Village Specimen No.2 filed by the Petitioners alongwith Writ Petition (St.) No.615/2025. For the purpose of illustration, the claim of the first Petitioner-Mahadeo Laxman Bhuyal is considered. He has relied upon Village Specimen No.2 dated 4 September 1996 issued by Talathi, Village-Panch Pakhadi. The document is titled as 'गाव नमुना नंबर : दोन, अकृषीक महसुलाचे नोंदवही उत्तरा' (Village Specimen No. 2, Extract of Register for Non-Agricultural Tax).

The land therein is described as Gairan Survey No.502/A (Pt). It is Petitioner's claim that Plot No.12 admeasuring 195 sq. *var* was allotted for construction of house in the name of Laxman Bhendu Bhuyal, father of Petitioner No.1. Under the column-*Manjuricha Hukum* (order of approval), there is reference to Collector LND-SR-1231 dated 27 March 1950 and LND-2023 dated 30 March 1950. However, there is a separate column under the heading '*Mudat*' (period) which shows that the period as 1 August 1979 to 31 July 1991.

35) It is on the basis of this document of Village Specimen No.2 that Petitioner of Writ Petition (St.) No.615/2025 lay their claim of ownership in respect of plots of lands described in the said document. On the contrary, it is the contention of the contesting Respondents that the entries made in the Village Specimen No.2 are meaningless and were made for the limited purpose of recording revenue assessment for non-agricultural use during the period from 1 August 1979 to 31 July 1991. It is an admitted position that after 31 July 1991, the said entries relating to non-agricultural assessment have not been made in the revenue records.

36) It appears that some of the Petitioners have made efforts to get their names mutated in the revenue records from time to time. One of them (Mahadeo Laxman Bhuyal) had approached the Maharashtra State Human Rights Commission with the grievance of non-mutation of their names to the revenue records. Reliance is placed on order dated 3 March 2008 passed by the Commission in complaint filed by Mahadeo Laxman Bhuyal. The order reads thus:

ORDER

Applicant present. On behalf of respondent Shri. M Y bhoite present. Applicant vide his letter dt. 13/11/07 has complaint regarding ---. During the hearing respondent express the satisfaction of the case vide her report dated 01/03/08. the applicant express satisfaction about the development and express thanks to the Commission for the prompt action taken on this commission and request then the matter be close. The request accepted and the matter closed under sec. 17(1)(b) of Protection of Human Rights Act, 1993.

37) The complaint filed by Shri. Mahadeo Laxman Bhuyal with the Human Rights Commission came to be closed as he expressed satisfaction over contents of the report dated 1 March 2008 submitted by the Collector. The said report is not placed on record. Thus, the Commission never directed mutation of his name to the revenue records.

38) It appears that after hiatus of 10 long years, some of the Petitioners renewed their efforts for getting their named mutated to the revenue records in the year 2016 by alleging non-implementation of Order passed by the Human Rights Commission. The Collector had replied to Mr. Bhuyal on 29 February 2016 that his application was forwarded to the Sub Divisional Officer, with copy thereof to the SDO, who in turn called for report of Tahsildar. The Tahsildar sent a report dated 17 April 2016 by appending the letter of the Circle Officer dated 16 May 2016. The Circle Officer had referred to Village Specimen No.2 and guidance of Tahsildar was sought by him. In my view, the above correspondence would only point out to the efforts made by the Petitioner-Mahadeo Laxman Bhuyal to have his name mutated to the revenue records. It would be too dangerous to record a finding of fact that the said Petitioner-Mahadeo Laxman Bhuyal became owner of Plot No.12 out of land bearing Survey No.502/A admeasuring 195 *var*. The attempt made by Petitioner-Mahadeo Laxman Bhuyal to impress upon AGRC and this Court that he is the allottee and owner of such plot on the

basis of the correspondence of revenue authorities and order of Human Rights Commission appears to be not only misconceived, but also based on suppression of facts. He has suppressed the fact that he had filed suit for seeking recovery of possession based on claim of title, which has been dismissed. This fact was suppressed by him in the Petition as well as before the AGRC, which is brought on record by the Developer by way of Affidavit-in-reply. It would be necessary to take a quick stock of the said litigation filed by Petitioner- Mahadeo Laxman Bhuyal.

39) Petitioner-Mahadeo Laxman Bhuyal had filed Regular Civil Suit No.149/1986 in the Court of Civil Judge Junior Division, Thane against one Mr. Ashok Baburao Basankar branding him to be unauthorised occupier. Plaintiff therein (Mahadeo Laxman Bhuyal) claimed ownership in respect of portion of land bearing Survey No.502/A and alleged that the Defendant was unauthorisedly occupying the same. Specific issue was framed by the Trial Court as to whether the Plaintiff therein proved his ownership in respect of the land in question. The issue was answered in the negative by recording following reasons :

13. The reason for reproducing some of the contents over here is, this gives the exact position of the title of the land. When the extension was not obtained, **the lease grant expired on 01/01/50**. No doubt possessory rights are with the grantees. Plaintiff is one of those. **It means he does not have any title in respect of the land beneath the suit tenement**. It is also necessary to see what P.W.2 and P.W.3 has said in respect of this issue in their oral evidence. In examination in chief P.W.2 stated that the property bearing no.9120634 stands in the name of plaintiff. **But in his cross examination is admitted that entire Chirag Nagar is the government property.**

14. P.W.3 also in his cross examination admitted that Survey No. 502/A is a Government Land for "Gurcharan". He further stated that entire Chiragnagar is occupied by unauthorised structures. He further admitted that government land cannot be rented out.

(emphasis added)

40) The suit preferred by the Petitioner-Mahadeo Laxman Bhuyal, which was premised on the claim of title, was dismissed by the Trial Court by decree dated 8 April 2010. Civil Appeal No. 125/2010 was preferred by him challenging the Trial Court's decree before the District Court, Thane. The appeal was however dismissed vide judgment and decree dated 1 July 2014 by recording following findings:

So after careful scrutiny of the document mentioned here-in-above, it is clear that the land under the structure is government land [Gurcharan S.No. 502/A (Part)]. The notification of the slum of the said land is also on record (No Exhibit is given, but it is on document page no.63). So admittedly the land S. No. 502/A(part) is slum on government land.

(emphasis added)

41) Thus, the claim of ownership of Petitioner-Mahadeo Laxman Bhuyal based on Village Specimen No. 2 has already been negated by the Civil Court. The issue that arises for consideration is whether he can be permitted to claim title in respect of the land before the AGRC ? The answer to the question appears to be in the emphatic negative. Having failed to establish title before the Civil Court, Petitioner-Mahadeo Laxman Bhuyal cannot be permitted to scuttle the implementation of slum scheme by raising claim of ownership before AGRC. It was too adventurous on his part to expect that AGRC would set aside declaration of Slum Rehabilitation Area by issuing him certificate of title.

42) Additionally, in support of their claim of being the allottees of the plots of land, Petitioners in Writ Petition (Stamp) No.615 of 2025 have relied on various other documents such as :

- (i) Electricity bill showing supply as on 3 August 1988.
- (ii) Receipt towards payment of non-agricultural tax dated 5 June 2023.

(iii) Municipal Assessment Bills for the year 2023-2024.

(iv) Receipt issued by Thane Municipal Council for supply of water.

(v) Property tax receipt issued by Thane Baro Municipal Council of 10 August 1965, etc.

43) These documents may prove occupation of structures situated on the land bearing Survey No.502/A. The issue is whether all these documents can be considered for the purpose of acceptance of claim of Petitioners in Writ Petition (Stamp) No.615 of 2025 as owners of the land. Answer to the question appears, to my mind, to be in the negative. Those documents would only help those Petitioners for proving occupation of structures by them for a long time. However, inference of title cannot be drawn in absence of production of any valid allotment order issued by the Collector allotting any portion of the land in favour of any of the Petitioners. What must be borne in mind is that the land belongs to the Government as per the revenue entries. Therefore, the only manner in which government can dispose of the land is through making an order of allotment. Mere social background of Petitioners as tribals would not be a reason for raising a surmise that occupation of structures would automatically mean allotment of lands in their names.

44) It appears that claim of Petitioners in Writ Petition (Stamp) No.615 of 2025 in respect of title has been repeatedly rejected by the revenue authorities. It appears that Petitioner-Mahadeo Laxman Bhuyal had filed complaint with SRA against implementation of slum scheme by claiming ownership of Petitioners in land bearing Survey No.502/A. Since the claim was based on occupancy of land admeasuring 4774.17 sq. mts. as tribals, CEO/SRA wrote letter dated 4 January 2024 to the Collector calling for a detailed report as to whether provisions of

Sections 36 and 36A of the Code were applicable to any portion of land in Survey No.502/A. District Collector, Thane, had called upon Tahsildar to make an enquiry by letter dated 6 February 2024. Tahsildar conducted enquiry and submitted report dated 16 February 2024 as under :

क्र. महसूल/क-१/टे-२/जमीनबाब/कावि-R-२३४४/२०२४.

दिनांक : १६/०२/२०२४

प्रति,
ना. जिल्हाधिकारी ठाणे
(कुळवहिवाट शाखा)

विषय :- झोपडपट्टी पुनर्वसन योजना झोपडपट्टी पुनर्वसन क्षेत्रात आदिवासी यांच्या हरकतीबाबत.

संदर्भ:- आपलेकडील पत्र क्र. महसूल/-१/टे-२/टेनन्सी/कावि/एसआर-३/२०२४, दि.६/२/२०२४ रोजीचे पत्र.

उपरोक्त विषयांचे संदर्भित पत्रान्वये श्री. महादेव लक्ष्मण भूयाळ स्थानिक रहिवाशी सेवा संघ व इतर यांनी मा. मुख्य कार्यकारी अधिकारी मुंबई महानगरप्रदेश झोपडपट्टी प्राधिकरण यांचेकडे केलेल्या तक्रारी अर्जाच्या अनुषंगाने मौजे पाचपाखाडी येथील स नं.५०२/अ संदर्भातील ७/१२, फेरफार, बिनशेती आदेश व आवश्यक कागदपत्रासह अहवाल सादर करणेबाबत निर्देश दिलेले आहेत.

त्यानुषंगाने तलाठी सजा पाचपाखाडी यांचेमार्फत सविस्तर चौकशी केली असता त्यांनी त्यांचेकडील पत्र क्र.पा.पा/पत्र/बानि.१८८/२०२४, दि.१६/२/२०२४ अन्वये सोबतची सहपत्रे पाहता खालीलप्रमाणे वस्तुस्थिती दिसून येते.

मौजे, पाचपाखाडी येथील स नं.५०२/अ क्षेत्र ३.३९.० हे आर चे अधिकार अभिलेख तपासले असता सदर जमीन मुळपासून गुरचरण जमीन आहे. तसेच स नं.५०२/अ बाबत गावचा नमुना दोन मधील नोंद क्र.१५६ ते १६६ ला कलेक्टर नं.Ind. sr १२३१ दि.२७/३/५० लगत प्रा.नं.Ind २०२३ दि.३०/३/५० व ता.Ind sr ३२९ दि.४/४ नुसार नोंदी दाखल आहेत. तसेच नोंद क्र. २०० ते २१० ला प्रांत हु नं.Ind sr I २१३१ दि.८/६/५१ व ता. Ind sr iii १८३ दि.२८/६/५१ नुसार नोंदी असून त्यांची नक्कल सोबत जोडली आहे. त्यानंतर गावी फेरफार क्र.४५९८ दि.११/१०/२०२४ नुसार महाराष्ट्र शासन महसूल व वन विभाग यांचेकडील परिपत्रक क्र. जमीन १०९१/७१३/प्र.क्र.५९/ज-१ दि.१४/१२/१९९८ लगत मा. जिल्हाधिकारी ठाणे यांचेकडील पत्र क्र.महसूल/क-१/टे-२/कावि-f ११६२६९४७१५४२७८ दि.३०/८/२०२१ लगत या कार्यालयाकडील पत्र क्र. महसूल/क-१/टे-२/जमीनबाब/कावि-९२१५/२०२४/१२४६ दि.२९/९/२०२१ प्रमाणे सदर जमीन कब्जेदार सदरी गुरचरण ही नोंद कमी करून महाराष्ट्र शासन अशी नोंद दाखल आहे. तसेच इतर हक्काल महाराष्ट्र शासन राजपत्र अधिसूचना क्र.झो.पु.प्रा.उजि.-२/चिरागनगर /२०१६/१७२ दि.३/९/२०१६ नुसार झोपडपट्टी पुनर्वसन योजना क्षेत्र ३३२०० चौ.मी. अशी नोंद दाखल आहे.

तसेच आजरोजी अधिकार अभिलेख ७/१२ प्रमाणे मौजे पाचपाखाडी ता.व जि ठाणे येथील स नं.५०२/अ क्षेत्र ३.३९.०० हे आर ही जमीन कोणत्याही आदिवासी व्यक्तीच्या नावे दाखल असल्याचे दिसून येत नाही. त्यामुळे गाव अभिलेखाची पडताळणी केली असता सदर जमीन कलम ३६, ३६अ ला पात्र असल्याचे दिसून येत नाही.

तरी मौजे पाचपाखाडी येथील स नं.५०२/अ चे पिकपाहणी ७/१२ चालू ७/१२ सर्व फेरफार व फेरफार क्र.४५९८ दि.११/१०/२०२४ च्या संचिकेची छायांकित प्रत सोबत जोडून सादर करित आहोत. पुढील सविनय सादर तरी प्रकरणी वरीलप्रमाणे वस्तुस्थितीदर्शक अहवाल सादर करित आहोत. सोबत तलाठी सुजा पाचपाखाडी यांचेकडील अहवाल जोडला आहे.

45) The Collector accordingly wrote back to CEO/SRA on 15 October 2024 stating as under :

मौजे पाचपाखाडी येथील स.नं. ५०२/अ क्षेत्र ३-३९-० हे आर चे अधिकार अभिलेख तपासले असता सदर जमीन मुळपासून गुरचरण जमीन आहे. तसेच स.नं. ५०२/अ बाबत गावचा नमुना दोन मधील नोंद क्र. १५६ ते १६६ ला कलेक्टर नं. Ind. Sr १२३१ दि. २७/३/५० लगत प्रा.नं. Ind २०२३ दि. ३०/३/५० व ता. Ind sr ३२९ दि.४/४ नुसार नोंदी दाखल आहेत. तसेच नोंद क्र. २०० ते २१० ला प्रांत हु नं. Ind sr I २१३१ दि. ८/५/५१ व ता. Ind sr iii १८३ दि. २८/६/५१ नुसार नोंदी असून त्यांची नक्कल सोबत जोडली आहे. त्यानंतर गावी फेरफार क्र. ४५९८ दि. ११/१०/२०२४ नुसार महाराष्ट्र शासन महसूल व वन विभाग यांचेकडील परिपत्रक क्र. जमीन १०९१/७१३/प्र.क्र.५९/ज-१ दि. १४/१२/१९९८ लगत मा. जिल्हाधिकारी ठाणे यांचेकडील पत्र क्र. महसूल/क-१/टे-२/कावि/१६२६९४७१५४२७८ दि. ३०/०८/२०२१ लगत तहसीलदार ठाणे कार्यालयाकडील पत्र क्र. महसूल/क-१/टे-२/जमीनबाब/कावि-९२१५/२०२४/१२४६ दि. २९/०९/२०२१ प्रमाणे सदर जमीन कब्जेदार सदरी गुरचरण ही नोंद कमी करून महाराष्ट्र शासन अशी नोंद दाखल आहे. तसेच इतर हक्कात महाराष्ट्र शासन राजपत्र अधिसूचना क्र.झो.पु.प्रा/उजि-२/चिरागनगर/२०१६/१७२ दि.०३/०९/२०१६ नुसार झोपडपट्टी पुनर्वसन योजना क्षेत्र ३३२०० चौ.मी. अशी नोंद दाखल आहे.

तसेच आज रोजी अधिकार अभिलेख ७/१२ प्रमाणे मौजे पाचपाखाडी ता.जि. ठाणे येथील स.नं. ५०२/अ क्षेत्र ३-३९-० हे.आर. ही जमीन कोणत्याही आदिवासी व्यक्तीच्या नावे दाखल असल्याचे दिसून येत नाही. त्यामुळे गाव अभिलेखाची पडताळणी केली असता सदर जमीन कलम ३६ ३६अ ला पात्र असल्याचे दिसून येत नाही असे तहसीलदार ठाणे यांनी आपल्या अहवालात नमुद केले आहे.

तसेच तहसिलदार ठाणे यांनी त्यांचेकडील पत्र क्र. महसूल/क-१/टे-२/जमीनबाब/कावि. R ९६०/२०२४/२३६ दि. ०२/०२/२०२४ अन्वये आदिवासी बांधवांच्या हरकतीबाबत मौजे पाचपाखाडी ता.जि. ठाणे येथील स.नं. ५०२अ या जमिनीबाबत फेरफार निहाय वस्तुस्थितीदर्शक अहवाल उपजिल्हाधिकारी व सक्षम प्राधिकारी, मुंबई महानगर प्रदेश, झोपडपट्टी पुनर्वसन प्राधिकरण, ठाणे-२ यांचेकडे सादर केला आहे.

तहसिलदार ठाणे यांचा अहवाल व उपलब्ध अभिलेखाचे अवलोकन करता प्रश्नाधिन जमिनीच्या गाव न नं.२ मधील घरांसाठी व झोपडयांसाठी असलेल्या नांदोच्या अनुषंगाने कागदपत्रे तलाठी सजा पाचपाखाडी, तहसिल कार्यालय ठाणे, उपविभागीय अधिकारी ठाणे व जिल्हाधिकारी कार्यालयात कार्यालयात उपलब्ध नाहीत.

श्री. महादेव लक्ष्मण भुयाळ रा.लक्ष्मी चिरागनगर, पोखरण रोड नं.१ ठाणे यांनी मा. राज्य मानवी हक्क आयोग, मुंबई यांचेकडे दिनांक १३/११/२००७ रोजी अर्ज दाखल केला होता सदर अर्जात त्यांनी मौजे पाचपाखाडी ता.जि. ठाणे येथील स.नं. ५०२ अ एकूण क्षेत्र ३-३९-०० हे. आर पैको गां. नं.नं.२ मध्ये नमुद नोंदी प्रमाणे २२ आदिवासींची नोंद ७/१२ उता-वर होणेबाबत मागणी केली. सदर अर्जाच्या अनुषंगाने मा. राज्य माहिती आयोग यांचेकडील प्रकरण क्र. ४३१६/२००/३३२ दिनांक २३/०१/२००८ अन्वये दिनांक २०/०२/२००८ रोजी सुनावणी ठेवण्यात आली. श्री. महादेव लक्ष्मण भुयाळ यांनी राज्य मानवी हक्क आयोग मुंबई यांचेकडे केलेल्या अर्जानुसार प्रकरण क्र. ४३१६/२००/३३२ दि. २२/०२/२००८ रोजी सुनावणी होऊन दिनांक ०३ मार्च २००८ रोजी प्रकरणी दिलेल्या आदेशात खालील प्रमाणे नमुद केले आहे.

Applicant present. On behalf of respondent Shri. M. Y. Bhoite present. Applicant vide his letter di. 13/11/07 has complaint regarding "७/१२ च्या उता-यावर नोंद होणेचायत". During the hearing respondent express the satisfaction of the case vide her report dated 01/03/08. The applicant express satisfaction about the development and express thanks to the Commission for the prompt action taken on this Commission and request then the matter be close. The request accepted and the matter closed under sec. 17(1)(b) of Protection of Human Rights Act. 1993.

राज्य मानवी हक्क आयोग मुंबई यांचेकडील उपरोक्त पारीत आदेश अर्जदार श्री. महादेव लक्ष्मण भुयाळ यांचे मागणी अर्ज व गां. नं.नं.२ मध्ये नमुद नोंदीच्या अनुषंगाने या कार्यालयाचे दि. २२/०४/२००८ व दि. १६/११/२०१२ रोजीच्या पत्रान्वये अहवाल मा. विभागीय आयुक्त, कोंकण भवन मार्फत शासनास सादर करणेत आला. तथापि प्रकरणी शासनमार्फत अंतिम आदेश प्राप्त झालेले नाहीत.

तदंतर महाराष्ट्र (झोपडपट्टी सुधारणा, निर्मूलन आणि पुनर्विकास) अधिनियम १९७१ अन्वये ठाणे महानगरपालिका क्षेत्रासाठी झोपडपट्टी पुनर्वसन योजना तयार करून दिनांक १७ मार्च २०१६ रोजी राजपत्रात प्रसिद्ध केली असून सदर योजनेत मौजे पाचपाखाडी ता.जि. ठाणे येथील स.नं. ५०२ अ एकूण क्षेत्र ३-३९-०० हे.आर पैकी ३३२००.५८ चौ.मी.चा समावेश करणेत आला आहे.

मौजे पाचपाखाडी ता. ठाणे येथील स.नं. ५०२/अ क्षेत्र ३-३९-० हे.आर. या जमिनीच्या ७/१२ सदरी मंजूर फेरफार क्र. ४५९८ दि.११/१०/२०२१ अन्वये भोगवटदार सदरी गुरुचरण अशी नोंद कमी करून महाराष्ट्र शासन अशी नोंद दाखल करणेत आली असून इतर हक्कात महाराष्ट्र शासन राजपत्रात अधिसूचना क्र.झो.पु.प्रा./उजि-२/चिरागनगर/२०१६/१७२ दिनांक २७/१०/२०१६ नुसार "झोपडपट्टी पुनर्वसन योजना" क्षेत्र ३३२००.५८ चौ.मी. अशी नोंद करणेत आली आहे.

सदर जमिनीच्या मुळ गांव नमुना नं. २ चे अवलोकन करता गांव नं. २ हे इतर कायम उत्पन्नाचे रजिस्टर आहे. सदर रजिस्टर (नोदीवही) मधील नोंदी नमुद आदेश हे बिनशेती परवानगी आदेश नसल्याने सदर आदेशाचा अंमल मौजे पाचपाखाडी, ता.जि. ठाणे येथील स.नं. ५०२ अ एकूण क्षेत्र ३-३९-० हे. आर. या जमिनीच्या ७/१२ सदरी दिसून येत नाहीत सदर जमिनीच्या ७/१२ सदरी सन् १९२१ पर्यंत गुरुचरण अशी नोंद असल्याने सदर जमिनीच्या अधिकार अभिलेखानुसार सदर जमीन कलम ३६. ३६अ ला पात्र असल्याचे दिसून येत नाही.

मौजे पाचपाखाडी ता. ठाणे येथील स.नं. ५०२/अ क्षेत्र ३३२००.५८ चौ.मी. क्षेत्रावर महाराष्ट्र झोपडपट्टी (सुधारणा, निर्मूलन आणि पुनर्विकास) अधिनियम -१९७१ च्या तरतुदी लागू असून संपूर्ण क्षेत्र झोपडपट्टीने व्यापत असलेने सदर जागेवर राहणारे आदिवासी बांधव हे बेघर होणार नाही तसेच त्यांना महाराष्ट्र झोपडपट्टी (सुधारणा, निर्मूलन आणि पुनर्विकास) अधिनियम १९७१ च्या प्रचलित धोरणानुसार अनुज्ञेय योग्य लाभ देणेबाबत आपलेमार्फत कार्यवाही करावी.

46) Thus CEO/SRA has satisfied himself about absence of ownership claim of Petitioners in Writ Petition (Stamp) No.615 of 2025 in land bearing Survey No.502/A.

47) It appears that while complaining to CEO/SRA against implementation of SRS on land bearing Survey No.502/A, Petitioners had also filed applications before the Tahsildar on 12 February 2024 for mutation of their names in the revenue records. By letter dated 14 November 2024, Tahsildar rejected the request stating as under :

आपण मौजे पांचपाखाडी, ता. जि. ठाणे येथील स.नं. ५०२/अ या जमिनीचे ७/१२ सदरी भूमीहीन आदिवासींचे नावाची नोंद करणेबाबत मा. जिल्हाधिकारी, ठाणे यांचे कार्यालयाकडे केलेला अर्ज मा. उपविभागीय अधिकारी, ठाणे विभाग, ठाणे यांचेकडील संदर्भित पत्रान्वये या कार्यालयास प्राप्त झालेला आहे. प्रस्तुत पत्राचे अनुषंगाने मंडळ अधिकारी, ठाणे यांचेमार्फत सविस्तर चौकशी केली असता, मंडळ अधिकारी, ठाणे यांनी त्यांचेकडील पत्र क्र.सि.ओ.टी/वशी-४६/२०२४, दि.२३/१०/२०२४ अन्वये या कार्यालयाकडे अहवाल सादर केलेला आहे. सदरचा अहवाल व सोबतची सहपत्रे पाहता, खालीलप्रमाणे वस्तुस्थिती दिसून येते.

मौजे पांचपाखाडी, ता. जि. ठाणे येथील स.नं. ५०२ अ ही जमीन सद्यस्थितीमध्ये महाराष्ट्र शासनाचे मालकीची असून इतर हक्कामध्ये महाराष्ट्र शासन राजपत्र अधिसूचना क्र. झो. पु. प्रा./उजि-२/चिराग नगर/२०१६/१७२, दि.०३/०९/२०१६ नुसार झोपडपट्टी पुनर्वसन योजना क्षेत्र ३३२००.५८ चौ. मी. अशी

नोंद आहे. सदरची जागा झोपडपट्टी पुनर्विकास योजनेकरीता आरक्षित असल्याने आपली विनंती मान्य करता येणार नाही. सबब आपला उपरोक्त विषयाचा अर्ज या कार्यालयाचे स्तरावर निकाली काढणेत येत आहे.

48) It appears that separate application was filed by Shri Mahadeo Laxman Bhuyal on 9 August 2024 for allotment of portions of land in Survey No.502/A on ownership basis, which again was rejected by the Tahsildar by a separate communication dated 14 November 2024.

49) The above documents will clearly indicate that Petitioners in Writ Petition (Stamp) No.615 of 2025 are well aware of the fact that they need to secure order for allotment of the land in their favour from the State Government. The State Government has refused to allot the land in their favour. Therefore, mere reliance on documents such as Village Specimen No.2 or electricity bills, Municipal assessment bills, water charges bills, etc. would be irrelevant for the purpose of drawl of inference of ownership of land by those Petitioners.

50) It is sought to be contended that the AGRC has failed to apply its mind to various documents relied upon by the Petitioners in Appeal No.57 of 2024 and that the issue of title of Petitioners has been entirely sidetracked by the AGRC. I am unable to agree. Though briefly, AGRC has considered their claim of title and has recorded following findings :

47. From the record, it further appears that, the 7/12 Extract of the plot of land bearing Survey No. 502/A(pt), 67, 83/4,84/1 to 7(pt) clearly indicate that, the Subject Property is owned by the Government of Maharashtra and Appellants did not have any title document to indicate their ownership in respect of said plot of land.

51. Survey No. 502/A has about 1848 numbers of hutments on it. And there are merely 14 slum dwellers who are claiming to be tribals. As per the documents submitted by the Appellants, some land was shown as Gurucharan land and some part of the land has been allotted to certain persons for non-agricultural purpose viz construction of a hut The alleged tribals occupancy on the subject property was permissible

for a period till year 1991. There is village Form-2 for non-agricultural assessment showing these details and apart from this extract, there is no documents to show their names as Bhogwatedar of the subject property with these slum dwellers. As on today, Village Form-2 does not bear names of alleged tribals.

52. Tahsildar, Thane by its order dated 02.02.2024 confirmed that claims of alleged tribals cannot be granted with remark that there is existence of slum on the subject plot of land.

53. Appellant never tried to vacate the subject plot of land occupied by the slum dwellers but are now claiming entire vacant land which has been vacated by the Respondent after following due process of law for the redevelopment of the subject S. R. Scheme.

54. The Appellant are not able to produce any documentary evidence of ownership of the said land. Order of Human Right Commission, Communication from Collector or other Revenue Officer were not acted upon and hence the claims of the Appellants is not substantiated.

51) In my view therefore, AGRC has applied its mind to the claim of title raised by Petitioners in Writ Petition (Stamp) No.615 of 2025. I therefore, do not find any valid reason to pass an order of remand of the proceedings to the AGRC as sought to be suggested by Mr. Nargolkar.

52) It is contended by Mr. Nargolkar that land bearing Survey No.502/A has not been declared as a 'slum area' under provisions of Section 4 of the Slum Act. He has submitted that the land in occupation of Petitioners in Writ Petition (Stamp) No.615 of 2025 cannot be treated as unfit for human habitation and that it does not lack ventilation or sanitation facility. He has thus suggested that the land as well as structures in occupation of those Petitioners cannot otherwise be treated as 'slum area' under Section 4 of the Slum Act. It is therefore contended that in absence of declaration as slum area, further declaration of land bearing Survey No.502/A as Slum Rehabilitation Area under Section

3C(1) could not have been made. In my view, this contention is based on complete misreading of provisions of Section 3C(1) of the Slum Act. The plain language of Section 3C(1) would indicate that the CEO/SRA is empowered to issue declaration as Slum Rehabilitation Area irrespective of the fact where the land is previously declared as 'slum area' under Section 4 or not. Thus, the land which is not previously declared as 'slum area' under Section 4 can also be included in declaration under Section 3C(1) for the purpose of implementation of SRS. This principle is accepted in Division Bench judgment of this Court in *Santosh Tukaram Patil* (supra) in which it is held in paragraphs 22, 25, 44, 45 and 46 as under :

22. While on this, it is important to note that Section 3C uses the words "*whether or not previously declared as slum area, justifying its declaration as the slum rehabilitation area*". Slum areas are covered in Chapter II, but this is omitted from Chapter I-A. To understand how this works, the declaration of a slum area (as distinct from a slum rehabilitation area) is one under Section 4 and certain slum-like conditions must obtain. Section 3C(1) is far wider in its scope and is not restricted to a determination based on conditions that obtain on the ground. This is not a distinction that can be obliterated. When, therefore, there is a slum rehabilitation scheme, it is no answer at all to say that there are no slum like conditions. The slum rehabilitation scheme set out in Section 3B precedes the declaration of a slum rehabilitation area.

25. This use of the word 'slum areas' in Section 3A ties into the definition and also to some extent Section 4 under Chapter II. But this does not mean that the conditions specified in Section 4 will necessarily determine the formulation of a slum rehabilitation scheme. Nothing in the reading of Chapter I-A can be read to suggest this. All that the SRA is required to do is to survey and review the existing position and then to formulate and implement a slum rehabilitation scheme.

44. Mr. Jagtiani draws our attention to the decision of the Supreme Court in *Kantabai Vasant Ahir v. Slum Rehabilitation Authority*¹ That also dealt with the Slum Act. There is an analysis of certain provisions of the Act and in paragraph 17 the finding of the Supreme Court was that Chapter I-A is a self-contained code and that the phrase 'slum area' used in Section 12(1) does not have the same meaning as in Section 2(ga). For the purposes of the slum rehabilitation schemes Chapter I-A is a self-contained code. Thus, a slum area does not necessarily always partake of the meaning under Section 4(1). This tells us that for the purposes of a slum rehabilitation scheme, while one of the

considerations may well be slum-like conditions as enumerated in Section 4(1), it is not an essential requirement that those slum-like conditions must necessarily restrict a slum rehabilitation scheme under Chapter I-A.

45. Section 4 is not part of Chapter I-A. This is inter alia apparent from Section 3D, which modifies other portions of the Slum Act and is applicable to Chapter I-A. Section 12 is considerably modified. Section 11 is wholly omitted. Chapters II and III are also entirely omitted (therefore including Section 4) for the purposes of slum rehabilitation schemes.

46. Thus, from any perspective, no relief can be granted to the Petitioners. The challenge to the Section 3C declarations and notifications must fail.

53) The contention raised by Mr. Nargolkar that Notification dated 27 October 2016 is contrary to the provisions of Section 4 of the Slum Act therefore deserves to be rejected.

54) The Notification dated 27 October 2016 is also challenged in Writ Petition Nos.755 of 2025 and 756 of 2025 mainly on the ground that slum scheme cannot be implemented on *Gairan* land. It is contended by the Petitioners in those two petitions that land bearing Survey No.502/A was always *Gairan* land and there is a complete prohibition on regularization of illegal encroachment of such *Gairan* lands. Reliance is placed on judgment of the Apex Court in *Jagpal Singh* (supra) in which it is held that unauthorised occupants of Gram Sabha /Grampanchayat/ Poramboke /Shamlat land cannot be regularised, that they should be vacated and land must be restored to Panchayat. It is held that such regularization is permitted only in exceptional cases where lease has been granted under government notification to landless labourers or to members of SC/ST communities. Reliance is also placed on Government Resolutions dated 4 April 2022 and 12 July 2011. Notification dated 12 July 2011 is issued towards implementation of judgment in *Jagpal Singh*

(supra). In my view however, reliance of Petitioners in Writ Petition Nos.755 of 2025 and 756 of 2025 on judgments of the Apex Court in *Jagpal Singh* and two Government Resolutions is misplaced as the land is no longer Gairan land. Respondent No.6-Developer has placed on record 7/12 extract, which records holder of the land as State of Maharashtra. It appears that by Mutation Entry No.4598 dated 11 October 2021 the entry of 'Gairan land' has been deleted and name of Government of Maharashtra is mutated to the revenue records in addition to entry of SRS in respect of area admeasuring 33,200 sq.mts. as per notification dated 27 October 2016. Thus, land bearing Survey No.502/A which is infested with as many as 1848 slum structures is no longer treated as Gairan land. The State Government is the owner thereof. Therefore, judgment of the Apex Court in *Jagpal Singh* or Government Resolutions issued on 4 April 2022 or 12 July 2011 cannot come in the way of implementation of slum scheme on the said land.

55) In *Santosh Madhukar Bhondve* (supra), the Division Bench of this Court has considered the effect of provisions of Section 22A of the Code dealing with the subject of prohibition on diversion of Gairan land for construction of houses for economically weaker sections. This Court recorded the submissions in paragraph 22 of the judgment as under :

22. Main plank of argument of Shri Anturkar, learned Senior Advocate representing the petitioners is that in terms of the provisions contained in Section 22A of the MLRC, 1966, Gairan land cannot be diverted or granted or leased for any other use and since in this case Gairan land has been allotted in favour of respondent No.4 – Corporation for use of construction of houses for economically weaker section, the same is illegal being violative of the prohibition contained in Section 22A of the MLRC, 1966. It is his further submission that exception to prohibition as carved out in sub Section (2) of Section 22A of the MLRC, 1966 will operate only with a pre-condition that Gairan land may be diverted or granted or leased for public purpose/project only if no other suitable land of the Government is available for such public purpose/project and in the instant case, there is nothing on record to establish that any other Government land was available for the construction of houses for economically weaker section under the PMAY. Thus, it is his contention that the allotment was is unlawful.

56) Thus, the Division Bench of this Court has held in *Santosh Madhukar Bhondve* that the State Government being the absolute owner of its own land, putting any fetter on the right of the Government to dispose of any property would be impermissible and that Government would continue to have the authority and power to dispose of its land notwithstanding the prohibition contained in Section 22A of the Code. Therefore, challenge in Writ Petition Nos.755 of 2025 and 756 of 2025 to the Notification dated 27 October 2016 was otherwise baseless and has rightly been rejected by the AGRC while dismissing the appeal.

57) The challenge to the Notification dated 27 October 2016 is otherwise belated. Though the delay in filing Appeal No.57 of 2024 was condoned by the AGRC on 27 September 2024 the effect of the delayed challenge to the said Notification cannot be ignored by this Court. The slum scheme has progressed substantially during 8 long years when Petitioners never thought of challenging the said Notification. After issuance of Notification dated 27 October 2016, following developments have taken place :

- (i) Corrigendum was issued on 30 May 2018 rectifying area of land at Survey No. 83/4 (part)
- (ii) After survey all slum structures, Annexure-II was prepared on 6 May 2022
- (iii) LOI was issued in favour of the developer for implementation of slum scheme in respect of larger portion of the land admeasuring 41, 527.35 sq. mts.
- (iv) IOD for rehab building 1 was issued on 7 June 2023.
- (v) Revised LOI was issued on 21 June 2024 in respect of increased land of 48550.28 sq. mts.
- (vi) Demolition of 2255 slum structures has taken place after

finalisation of Annexure-II and almost all the slum structures excepting about only 64 structures have been demolished.

(vii) For demolition of balance structures, proceedings were initiated before Competent Authority on 4 July 2024 for eviction under Sections 33 and 38 of the Slum Act.

(viii) IOD for rehab building Nos. 2 and 3 and sale building Nos.1 to 5 upto plinth level was issued on 9 August 2024.

58) Implementation of the slum scheme has thus progressed substantially and therefore it would be imprudent to otherwise make any interference in the SRS at the instance of the Petitioners at this belated stage. Reliance by Mr. Khandeparkar on recent judgment of the Apex Court in *Mansur Ali Farida Irshad Ali* (supra) in this regard appears to be apposite. Apex Court has held in paragraphs 17, 18 and 19 as under:

17. For the present slum area, SRA had pointed out before the High Court that there were as many as 2965 slum structures which were surveyed and out of these, 2625 were found to be eligible for rehabilitation. Also, the record shows that Bharat Ekta Society is a bona fide society consisting of 261 slum dwellers and more than 70% of the eligible slum dwellers of the Society have taken a considered decision that they want redevelopment of their slums, and a great deal of progress has already been made in this regard so far. The project has not only been sanctioned but has reached an advanced stage and at this stage, the appellants cannot be allowed to disturb this ongoing project as it would defeat the whole purpose of the redevelopment which is going to benefit a large number of eligible slum dwellers.

18. Only four of the present appellants were there before the High Court and rest of the appellants are fence sitters who have directly approached this Court claiming that they are also affected by the order of the High Court, even though they were never a party before the High Court. In any case, we find no merit in their case.

19. No relief can be granted to these appellants as prayed. These appeals are liable to be dismissed and are hereby dismissed.

59) In the present case as well, the current status of slum structures on the plot as indicated by the developer is under:

Sr.No.	Particulars	Huts
1.	Total number of Huts	2319
2.	Amenity Huts	6
3.	Balance Huts	2313
4.	Demolished Huts	2255
5.	Balance Huts	64
6.	Huts to be demolished but deposit collected	3

60) Thus, minuscule number of structure occupiers are holding up implementation of the subject SRS where 2255 structures have already been demolished. It is not that upon implementation of SRS and demolition of structures of the Petitioners, they would be rendered homeless. This Court directed conduct of survey of structures occupied by Petitioners and other similarly placed persons by order dated 15 January 2025. The SRA has conducted survey of structures of Petitioners and other similarly placed persons and has submitted report before this Court vide Affidavit dated 6 February 2025. It appears that the Tahsildar has surveyed 43 structures existing on land bearing Survey No.502/A. He has noted all the details relating to actual area in occupation of the concerned persons, documents relied upon by them and has also taken photograph at the site. This course of action was adopted by this Court with a view to ensure that record of structures of Petitioners and other similarly placed persons is maintained for the purpose of deciding their eligibility for allotment of rehab tenements towards implementation of the subject SRS. It appears that majority of the structure occupiers would be considered eligible on the basis of

documents produced by them. They would accordingly become entitled to be allotted rehab tenements.

61) The case thus presents a unique conundrum where implementation of slum scheme of a very large magnitude is held up on account of claims raised by the Petitioners. When almost the entire plot of land is cleared of thousands of slum structures, the SRS cannot be held up till Petitioners establish their alleged claim of title/ownership in the land. Their conduct in not questioning notification of land as Slum Rehabilitation Area immediately after 27 October 2016 assumes importance. It is only when the Scheme started taking shape by appointment of a developer that Petitioners thought of opposing the same by creating hurdles in implementation of SRS.

62) In absence of any document evidencing allotment of land by names of Petitioners and in the light of the revenue authorities repeatedly certifying that no portion of land in Survey No. 502/A has been allotted to any of the Petitioners, this Court is unable to recognize any special status for them than that of mere occupiers of structures constructed on Government land. The SRA has decided to clear the slum by ensuring better living conditions for thousands of slum dwellers, who are awaiting allotment of rehab tenements to them on ownership basis. Petitioners, who are eligible, would also be provided with such rehab tenements. In fact there are multiple structures on plots of land claimed by Petitioners. Many structures are occupied by their relatives. This is clear from the chart produced by the Developer alongwith its reply. To illustrate, the land admeasuring 195 *var* is not occupied by Petitioner-Mahadeo Laxman Bhuyal alone. As per the Chart filed by the Developer along with its Affidavit-in-Reply, there are as many as 13 structures/huts occupied by different persons, on the said land as under :

Sr. No.	Gav namuna Entry No.	Name	Area	Hut Nos.	Current Hut Owners	Area	Status
11	166	(Mr. Laxman Bandu Dhamale) Mr. Laxman Bendu Bhuyal	195 war	SDK_S04_009/0050	Dinesh Chandrakant Bhuyal		WP/ 18995/24 pending
				SDK_S04_009/0051	Megha Chandrakant Bhuyal		Not consenting existing structure
				SDK_S04_009/0052	Varsha Chandrakant Bhuyal		Not consenting existing structure
				SDK_S04_009/0053	Sunil Chandrakant Bhuyal		WP/ 18995/24 pending
				SDK_S04_009/0054	Vanita Jayendra Bhuyal		WP/ 18995/24 pending
				SDK_S04_009/0055	Happy Raghunath Bhuyal		WP/ 18995/24 pending
				SDK_S04_009/0056	Mahendra Bhuyal		Not consenting existing structure
				SDK_S04_009/0057	Asha Ashok Basankar		Consented to scheme and demolished
				SDK_S04_009/0058	Mahadev Laxman Bhuyal		WP/ 18995/24 pending
				SDK_S04_009/0059	Mahadev Laxman Bhuyal		WP/ 18995/24 pending
				SDK_S04_009/0060	Yogesh Mahadev Bhuyal		Consented to scheme and demolished
				SDK_S04_009/0061	Sarita Mahadev Bhuyal		WP/ 18995/24 pending
				SDK_S04_009/0062	Swapna Ravindra Dhanawade		WP/ 18995/24 pending

If the occupiers of 13 structures located on land claimed by Petitioner-Mahadeo Laxman Bhuyal are found eligible, they would receive 13 flats. Out of those 13 occupiers of structures, 11 are members of Bhuyal family. Out of the 13 structure occupiers, two have consented to implementation of SRS and 11 are opposing the same. Similar is the position in respect of most of the Petitioners in Writ Petition (Stamp) No. 615/2025, who would receive multiple flats in rehabilitation buildings against several structures standing on the land in which they claim rights. Thus implementation of slum scheme would result in rehabilitation of tribals who would receive flats on ownership basis. On the other hand any further delay in implementation of the Scheme would put the whole scheme in serious jeopardy.

63) Thus the real contest here is not about any of the Petitioners being rendered homeless on account of implementation of slum scheme. Subject to satisfaction of their eligibility, the Developer is bound to allot them rehab tenements in addition to payment of rent from the date of demolition of their structures. What Petitioners expect is actually a larger pie in implementation of the SRS. Their real objection is not to prevent redevelopment of the land, which is already infested with thousands of hutments, but what they are actually expecting is grant of additional benefit as compared to other normal slum dwellers. Petitioners are expecting that they should be granted a special treatment during the course of implementation of slum scheme by being treated differently than the other normal slum dwellers. However, no special treatment can be granted to them on account of failure to prove ownership of part of land bearing Survey No.502/A. If the Petitioners of Writ Petition (Stamp) No. 615 of 2025 were really the owners of any portion of land bearing Survey No.502/A why they permitted mushrooming of thousands of slums in the said land has not been

explained in any manner. AGRC has also recorded finding that those Petitioners did not take any steps for removal of encroachment in the land in which they claim ownership. Their prayer before AGRC was to carve out entire land admeasuring 3.39 Hectare in Survey No.502/A. However, how Petitioners tolerated mushrooming of 1848 slum structures on the said land and did not take any steps for removal of encroachment has not been explained. It appears that only one Petitioner-Mahadeo Laxman Bhuyal made unsuccessful attempt of seeking recovery of possession of land and structure by filing civil suit, which came to be dismissed holding that he could not prove ownership of the land. Said decree has attained finality. Except him, no other Petitioner in Writ Petition (Stamp) No.615 of 2025 has taken any step in removal of any slum structure. It is only after slum structures are taken up for rehabilitation, Petitioner now want award of different treatment for the purpose of grant of additional benefits through implementation of slum scheme, which is the real intention behind initiation of present litigation. This Court cannot put implementation of slum scheme of such massive magnitude to risk only because Petitioners want to fulfill their desire of getting larger pie than other slum dwellers from the Developer.

64) I therefore do not find any valid reason to interfere in the impugned orders passed by the AGRC on 12 March 2025 rejecting the Appeal No.57 of 2024 as well as order dated 4 December 2024 passed in various appeals arising out of orders passed by Competent Authority under Sections 33 and 38 of the Slum Act. The Developer is willing to offer all the benefits arising out of implementation of slum scheme to the eligible Petitioners. Immediately upon vacation of their structures, they would be entitled to payment of transit rent. They would be allotted rehab tenement by the Developer on ownership basis. Their unauthorised structures will get converted into ownership tenements. I

therefore do not see any error on the part of the AGRC in upholding eviction orders passed under Sections 33 and 38 of the Slum Act.

65) The Petitions are thus devoid of merits. All the Petitions are accordingly **dismissed** without any order as to costs. In view of disposal of Writ Petition No. 18995 of 2024, nothing would survive in Interim Application No. 1146 of 2025 and the same also accordingly stands disposed of.

(SANDEEP V. MARNE, J.)

66) After the judgment is pronounced, Mr. Nargolkar, the learned counsel appearing for the Petitioners would seek stay on dispossession and demolition of structures of the Petitioners for a period of four weeks. The request is strenuously opposed by the learned counsel appearing for the contesting Respondents contending that the entire project is held up on account of non-cooperation by minuscule number of structure occupiers, when about 2255 structures have already been demolished. However, Mr. Naik, the learned senior advocate appearing for the Developer fairly makes a statement that no steps shall be taken for a period of two weeks for moving proceedings before the SRA for implementation of order of eviction passed under Sections 33 and 38 of the Slum Act *qua* Petitioners. Statement is recorded.

NEETA
SHAILESH
SAWANT

(SANDEEP V. MARNE, J.)

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