

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

WRIT PETITION NO. 11550 OF 2025

N. D. Bhuta Charities,
through its Trustees including
Kamlesh J. Bhuta
being a Charitable Trust registered under
the Public Trust Act, 1950
having its registered office at
Nagardas Dharsi Bhuta High School,
Old Nagardas Road, Andheri (East)
Mumbai – 400069.

...Petitioner

Versus

1. Apex Grievance Redressal Committee
Government of Maharashtra,
having office at Administrative Building,
Anant Kanekar Marg,
Bandra East, Mumbai – 400 051.
2. The Chief Executive Officer, SRA
3rd Floor, Administrative Building,
Anant Kanekar Marg,
Bandra East, Mumbai – 400 051.
3. The Dy. Chief Executive Officer, SRA
(H/E Ward)
2nd Floor, Administrative Building,
Anant Kanekar Marg,
Bandra East, Mumbai – 400 051.

4. The Executive Engineer, SRA (H/E Ward)

2nd Floor, Administrative Building,
Anant Kanekar Marg,
Bandra East, Mumbai – 400 051.

5. Yashwant SRA CHS (Prop)

6. Vijay Jadhav

Adult, Indian Inhabitant,
Chief Promoter of Respondent No.5
Both having their address at
CTS No. 611(pt), 611/4, 612,
612/1 to 2, 613(pt), 613/1 to 5
Yashwant Kadam Chawl,
Aliyavar Jung Marg,
Near Teachers Colony
Bandra East, Mumbai – 400 051.

7. Jaishree Mehta

Adult, Indian Inhabitant
Residing at 3, Uday Park Society
In the lane of Club Mall,
Jetalpur Road, Vadodara, Gujarat – 07

8. Shaila H. Gandhi

Adult, Indian Inhabitant
Residing at 11, Amar Kunj Building
2nd Floor, 377, Veer Savarkar Marg,
Shivaji Park, Dadar (W), Mumbai – 28

9. Bhavna N. Bhuta

Adult, Indian Inhabitant

Residing at 501, Vasant Villa
V. L. Mehta Marg, JVPD Scheme,
Juhu Vile Parle, Mumbai 400049

...Respondents

Mr. Ashish Kamat, Senior Counsel, a/w Mr. Vishal Kanade,
Jimish Shah, Nitesh Menon and Nirvi Shah, for the
Petitioner.

Ms. Aarushi Yadav, i/b Ravleen Sabharwal, for Respondent
No.1/SRA and Respondent Nos.2 to 4/AGRC.

Mr. Cherag Balsara, a/w Devansh Shah, Santosh Pathak,
Nimish Lotlikar and Deepesh Kadam i/b Law Origin, for
Respondent Nos.5 and 7.

Mr. Abhishek Sawant, a/w Ameet Mehta, Jill Rathod, Hardik
Gaglani, i/b Solicis Lex, for Respondent Nos.7, 8 and 9.

CORAM: N. J. JAMADAR, J.
RESERVED ON: 12th JANUARY, 2026
PRONOUNCED ON: 08th JUNE, 2026

JUDGMENT:-

1. Rule. Rule made returnable forthwith and, with the
consent of the learned Counsel for the parties, heard finally.

2. This petition under Article 227 of the Constitution of India
assails the legality, propriety and correctness of an order dated
7th February, 2025 passed by the Apex Grievance Redressal
Committee ("AGRC") (R1) whereby an application preferred by

Respondent Nos.7 to 9 for intervention came to be allowed and another final order dated 27th May, 2025, whereby the AGRC was persuaded to allow Application No. 82 of 2024 filed by Respondent Nos. 5 and 6 purportedly under Section 35 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (“the Slum Act, 1971”) and thereby set aside the order dated 27th July, 2021 passed by the Executive Engineer, SRA (R4) accepting the proposal submitted by the Petitioner – R4 therein for implementation of the Slum Rehabilitation Scheme on the plot of land bearing CTS Nos.612, 612/1 and 612/2 of Village Bandra, Taluka Andheri, situated at Yashwant Kadam Chowk, Aliyavar Jung Marg, Bandra, Mumbai, having a total area of 2381.50 sq. mtrs. (“the subject property”).

3. The background facts necessary for the determination of this petition can be stated in brief as under:

3.1 The Petitioner is a Public Charitable Trust registered under the Maharashtra Public Trusts Act, 1950. Under a Deed of Trust dated 26th April, 1958 executed between Nagardas Dharsibhai Bhuta, the settlor, and Ramaniklal N. Bhuta, Jaysukhlal N. Bhuta, Vasantben Ramaniklal and Bhanumati Jaysukhlal Bhuta, the trustees, the Charitable Trust under the name and style of “Nagardas Dharsey Bhuta Charities” was set

up.

3.2 Under a Deed of Conveyance dated 14th March 1961, the subject property was conveyed by Jal Khariwala and Khurshedji Khariwala to Ramaniklal Nagardas and Jaysukhlal Nagardas Bhuta. During the period 1971 to 1972, Ramaniklal donated the subject property to the Petitioner Trust. Thus, the Petitioner Trust became the owner of the subject property.

3.3 On 13th October 1977, an area admeasuring 5918.9 sq. mtrs. of CTS No. 611, an area admeasuring 615.2 sq. mtrs. out of the subject property and an area admeasuring 247.2 sq. mtrs. of CTS No. 613/1 to 5 were declared as a slum area under Section 4(1) of the Slum Act, 1971.

3.4 Yaswant SRA CHS (Proposed) (R5) is a proposed Co-operative Housing Society of alleged slum dwellers. Respondent No. 6 claims to be the Chief Promoter of R5 Society.

3.5 Ramaniklal Bhuta, one of the trustees of the Petitioner Trust passed away on 1st November 2005. In the wake of disputes *inter se* members of Bhuta family, Jaysukhlal and Bhanumati instituted a suit being Suit No. 3148 of 2009 in the High Court against Vasantben Bhuta and Respondent Nos. 7 to 9, primarily for declaration that the plaint properties described in Exhibit "B" were joint properties in which Ramaniklal and

Jaysukhlal have equal shares and for partition of those properties. The subject property, however, did not form part of the suit properties in Suit No. 3148 of 2009.

3.6 By way of a counterblast, Vasantben Bhuta and Respondent Nos. 7 to 9 filed Suit No. 389 of 2010 in the High Court against Jaysukhlal and Bhanumati seeking a declaration that the properties described in Exhibit “D” thereto are the exclusive properties of Ramaniklal and the properties described in Exhibit “C” jointly belong to Ramaniklal and Jaysukhlal, alongwith consequential reliefs. The subject property does not form part of the suit properties in Suit No. 389 of 2010, as well.

3.7 The Petitioner claims that in the month of November, 2009, Respondent Nos. 5 and 6 arbitrarily, unilaterally and illegally appointed Prarthana Developers to carry out slum rehabilitation redevelopment over the subject property, on their behalf. In the month of August 2010, Respondent Nos. 5 and 6 unilaterally and illegally substituted Prarthana Developers and appointed Siddharth Developers to carry out slum rehabilitation redevelopment on their behalf.

3.8 An application under Section 14(1) of the Slum Act, 1971 was also preferred by Respondent Nos. 5 and 6 seeking acquisition of the said subject property. The said application

was rejected on 30th May, 2012. Yet, on 13th October, 2016 Respondent Nos.5 and 6 filed another proposal under Section 14(1) of the Slum Act, 1971. The second application was also rejected vide communication dated 14th March, 2017.

3.9 The Petitioner claims that despite being aware of the fact that the Petitioner is the owner of the subject property, Respondent Nos. 5 and 6, by letter dated 22nd January, 2018, called upon the Petitioner to submit a proposal for redevelopment of CTS Nos. 611 and 613 and further called upon the Petitioner to deposit a sum of Rs.9 crores towards corpus. In the meanwhile, on 9th January, 2020, the area of CTS No. 612 forming part of the subject property was corrected from 533.7 sq. mtrs. to 2299.7 sq. mtrs. Thereupon, the Petitioner withdrew WP/1128/2014 as the Petitioner intended to develop the subject property as per the provisions of the Slum Act, 1971 and Circular No. 144A dated 9th March, 2015. Accordingly, the Petitioner submitted a proposal for the redevelopment of the subject property on 7th February, 2020.

3.10 On 20th February, 2020, the Petitioner submitted an application under Section 3C(1) of the Slum Act, 1971 to declare the balance area i.e. 1766 sq. mtrs. as a slum. After due compliance, as directed by the CEO, SRA (R2) to the Executive

Engineer, SRA, (R4), to submit a complete proposal to declare an area admeasuring 2381.50 sq. mtrs. of the subject property as slum under Section 3C(1) of the Slum Act, 1971, the Petitioner filed an application under Section 3C(1) of the Slum Act, 1971 on 10th December, 2020. Thereupon on 27th July, 2021, the SRA issued a report thereby conveying in-principle acceptance of the proposal of the Petitioner, subject to certain conditions.

3.11 On 25th August, 2023, Respondent Nos. 5 and 6 filed an application under Section 13(2) of the Slum Act, 1971 seeking change of the Petitioner as the developer. An abortive effort was made by Respondent Nos. 5 and 6 to challenge the in-principle acceptance of the proposal of the Petitioner by the SRA. Upon being informed that the SRA has no authority to review its own order, Respondent Nos. 5 and 6 preferred the instant application before the AGRC seeking rejection of the in-principle acceptance dated 27th July, 2021.

3.12 In the said application, on 29th September, 2024, Respondent Nos. 7 to 9 filed an application for intervention. Though the said application for intervention was finally heard on 7th February, 2025 and reserved for orders, the Petitioner claims, it subsequently transpired that the said intervention application was allowed by a non-speaking order dated 7th

February, 2025. Eventually, the application preferred by Respondent Nos. 5 and 6 also came to be allowed, and the order of acceptance of the proposal of the Petitioner for implementation of the Slum Rehabilitation Scheme dated 27th July, 2021 came to be set aside, purportedly on the ground that the Petitioner had submitted the said proposal without obtaining the consent and General Body Resolution of the society in accordance with Circular No. 144 and that in the affidavit in support of the application false assertions as regards the pendency of the proceedings were made.

4. Being aggrieved, the Petitioner has invoked the writ jurisdiction.

5. The Petitioner, *inter alia*, asserts that the AGRC (R1) committed an error in not appreciating that the proposal of the Petitioner was under Circular No. 144A and not under Circular No. 144 and, therefore, it was not mandatory to obtain consent and General Body Resolution of the society. Secondly, the AGRC (R1) has transgressed the jurisdictional limits in venturing into the issue of title over the subject property. Thirdly, the AGRC (R1) has committed a manifest error in not properly appreciating that the Petitioner, being the landowner, has a preferential right to develop the subject property and that

the title of the Petitioner to the subject property was clear. Fourthly, the AGRC (R1) failed to appreciate that the objections raised on behalf of Respondent Nos. 5 and 6 were premature as an in-principle approval cannot be equated with final sanction. Lastly, the AGRC (R1) missed to note that the application was grossly barred by limitation and was actuated by a design to usurp the Petitioner's land. The Petitioner has thus prayed for quashing and setting aside the orders dated 7th February, 2025 and 27th May, 2025.

6. The Respondent Nos. 5 and 6 have resisted the petition by filing an affidavit in reply. The substance of the resistance put-forth by Respondent Nos. 5 and 6 is that post submission and acceptance of the proposal of the Slum Rehabilitation Scheme, the Petitioner Trust made an application for declaration of a slum rehabilitation area and on 2nd May, 2024, an order was passed by the CEO, SRA. Thus, on the date of submission and acceptance of the proposal for the Slum Rehabilitation Scheme, a major portion of the subject property was non-slum area. Consequently, on the date of submission and acceptance of the proposal for the Slum Rehabilitation Scheme by the Petitioner, the proposal was incomplete. The said proposal could not have been improved by the Petitioner post acceptance thereof.

Consequently, the AGRC (R1) was fully justified in rejecting the acceptance of the Petitioner's proposal.

7. Secondly, Respondent Nos. 5 and 6 contend that there are disputes *inter se* family members and trustees of the Petitioner Trust. Therefore, the Respondent No. 5 Society has a reasonable apprehension that on account of the disputes in which the trust is embroiled, the Slum Rehabilitation Scheme cannot be smoothly implemented and resultantly the interest of the members of Respondent No. 5 Society would be jeopardised.

8. Thirdly, refuting the contention of the Petitioner that the Respondent No. 5 society had appointed Siddharth Developers arbitrarily, Respondent No. 5 contends that on account of the inordinate delay in implementation of the Slum Rehabilitation Scheme, Respondent No. 5 has terminated the appointment of Prarthana Developers and Siddharth Developers. It was further contended that Respondent No. 5 had called upon the Petitioner by letter dated 22nd January, 2018 to spell out the steps proposed to be taken for redevelopment of the Slum Rehabilitation Scheme to address the concerns of the slum dwellers.

9. Fourthly, Respondent No. 5 Society contended that the Petitioner Trust submitted the proposal of the Slum

Rehabilitation Scheme on a major portion of a non-slum plot by setting up a bogus and fake Society namely “Shri N. D. Bhuta Bandra SRA CHS (Proposed)” behind the back of Respondent No. 5 Society. The Petitioner Trust has conducted an AGM dated 1st May, 2022 only in respect of slum dwellers situated upon CTS No. 612 and obtained the signatures of slum dwellers situated upon CTS Nos. 611 and 613 by misleading them that the scheme was for redevelopment of CTS No. 612. Such conduct of the Petitioner was stated to be *mala fide* and illegal.

10. Lastly, the Respondent Nos. 5 and 6 have also referred to purported false assertions in the affidavit filed on behalf of the Petitioner, thereby suppressing the fact that there were litigation among the members of the Bhuta family and the trustees *inter se*. In such a situation, the interests of the members of Respondent No. 5 Society, who have been waiting for more than 40 years for the implementation of the Slum Rehabilitation Scheme would be completely *jeopardised* if the incomplete, illegal and *mala fide* proposal of Petitioner is accepted.

11. The Respondent Nos. 7, 8 and 9 have also resisted the petition by filing an affidavit in reply. Respondent Nos. 7 to 9 claim that they have a direct and abiding interest in the affairs of the Trust and the preservation of its assets. Mrs. Bhanumati

Bhuta allegedly appointed four of her immediate family members as trustees of the Petitioner Trust surreptitiously and in a fraudulent manner and behind the back of Respondent Nos. 7 to 9, who are the legal heirs of Ramaniklal Bhuta, the original trustee.

12. The Respondent Nos. 7 to 9 have, thus, raised a dispute about the appointment of the trustees and the fraudulent takeover of the Trust. Therefore, the AGRC was justified in allowing the intervention application filed on behalf of Respondent Nos. 7 to 9. The presence of Respondent Nos. 7 to 9 is necessary for a complete and effectual adjudication of the controversy in a fair and just manner and to obviate the multiplicity of proceedings.

13. An affidavit-in-rejoinder came to be filed on behalf of the Petitioner controverting the contentions in the affidavit-in-reply filed on behalf of Respondent Nos. 5 and 6. It was categorically denied that a major portion of the subject property was non-slum when the proposal submitted by the Petitioner for the development of the Slum Rehabilitation Scheme was accepted by the SRA. The order dated 29th April 2024 passed by the CEO, SRA declaring the entire area admeasuring 2381.50 sq. mtrs. as a slum area under Section 3C(1) of the Slum Act, 1971

has attained finality as it has not been challenged by Respondent Nos. 5 and 6. After scrutiny of the said proposal at various levels by the concerned competent authorities in-principle acceptance has been accorded. At any rate, whether the proposal was complete in all respects would be decided by the SRA before the issuance of LOI and, thus, the application preferred by Respondent Nos. 5 and 6 before the AGRC challenging the acceptance of the proposal was premature.

14. In the affidavit-in-rejoinder to the affidavit-in-reply filed on behalf of Respondent Nos. 7 to 9, the Petitioner asserts that Respondent Nos. 7 to 9 are not the trustees of the Petitioner Trust and have, thus, no *locus standi* to claim any right, title and interest in respect of the Petitioner Trust and the subject property. It was asserted that Mrs. Vasantben Bhuta, the sole surviving trustee, had lawfully appointed four trustees of the Petitioner Trust and the change was accepted by the Assistant Charity Commissioner by an order dated 20th January, 2023. Thus, the contention of Respondent Nos. 7 to 9 that the trustees have been appointed in a surreptitious and fraudulent manner cannot be countenanced. To put it in other words, Respondent Nos. 7 to 9 are neither the trustees of the Petitioner Trust nor have any concern with the subject property and, resultantly,

ought not to have been permitted to intervene in the proceedings before the AGRC (R1).

15. In the wake of the aforesaid facts and pleadings, I have heard Mr. Ashish Kamat, the learned Senior Counsel for the Petitioner; Ms. Aarushi Yadav, the learned Counsel for Respondent Nos. 1 to 4, Mr. Chirag Balsara, the learned Counsel for Respondent Nos. 5 and 6 and Mr. Abhishek Sawant, the learned Counsel for Respondent Nos. 7 to 9, at some length. The learned Counsel for the parties took the Court through the pleadings and the material placed on record.

16. Mr. Kamat, the learned Senior Counsel for the Petitioner submitted that, the AGRC has interfered with the in-principle acceptance of the proposal for implementation of the SR Scheme by ascribing patently incorrect reasons. The two principal reasons which appear to have weighed with the AGRC, namely the want of consent and General Body Resolution of the Respondent No. 5 – Society and the alleged false assertion in the affidavit filed on behalf of the Petitioner regarding non-pendency of any litigation in regard to the subject property, are both demonstrably unsustainable.

17. Amplifying the submission, Mr. Kamat would urge that, the AGRC approached the issue from an incorrect perspective.

The fact that, the SR Scheme was proposed to be developed by the Petitioner – Trust which is the indisputable owner of the subject property was completely lost sight of by the AGRC. The fact that, the proposal submitted and processed by the SRA was in terms of Circular No. 144A was plainly missed by the AGRC. In view of the modifications brought about by the said Circular No. 144A where the SR Scheme was to be implemented by the owner of the premises, the condition to obtain the consent of 70% of the occupants has been relaxed. Since the AGRC did not appreciate the distinction between the proposal which is governed by Circular No. 144A and the one under Circular No. 144, a patent error was committed by the AGRC in applying the parameters under Circular No. 144, and that led to a wholly erroneous finding, urged Mr. Kamat.

18. The second ground of alleged false statements in the affidavit filed on behalf of the Petitioner regarding the absence of litigation in regard to the subject property is equally untenable. Attention of the Court was invited to the pleadings in the two suits i.e. Suit Nos. 3148/2009 and 389/2010, Mr. Kamat submitted that, on the ownshowing of Respondent Nos. 7 to 9, the subject property of the Petitioner – Trust was not the subject matter of those suits. Yet, without examining the factual aspect

in the light of the material on record, by a stroke of a pen, the AGRC interfered with the order of acceptance of the proposal to implement the SR Scheme by observing that, there was a false assertion in the affidavit. Therefore, both the counts on which the AGRC was persuaded to interfere with the order of acceptance, are *ex facie* incorrect, and do not sustain the impugned order.

19. Mr. Kamat also submitted that, the objections sought to be raised on behalf of the private respondents in this petition do not deserve any countenance. On the contrary, the conduct of Respondent No. 5 – Society which has twice made an effort to move the government to acquire the subject property under Section 14 of the Slum Act, 1971, unsuccessfully, and has subsequently engaged with the Petitioner to implement the SR Scheme by putting an unreasonable condition of a deposit of an amount of Rs. 9,00,00,000/- (Rupees Nine Crores) leaves much to be desired. The entire action of Respondent No. 5 was actuated by a design to defeat the preferential right of the owner to implement the SR Scheme. To buttress the aforesaid submissions, Mr. Kamat placed reliance on the judgments of the Supreme Court in the cases of *Tarabai Nagar Co-op. Housing*

*Society (Prop.) Vs. State of Maharashtra & ors.*¹ and *Saldanha Real Estate Pvt. Ltd., Vs. Bishop John Rodrigues & ors.*²; which decisions have upheld the two-Judge Bench judgments of this Court in the cases of *Indian Cork Mills Pvt. Ltd., Vs. State of Maharashtra & ors.*³ and *Bishop John Rodrigues Vs. State of Maharashtra & ors.*⁴, respectively.

20. Mr. Balsara, the learned Counsel for Respondent Nos. 5 and 6, countered the submissions on behalf of the Petitioner. On the factual score, Mr. Balsara laid emphasis on the fact that as of the date of the acceptance of the proposal to implement the SR Scheme over the subject premises, incontrovertibly, there was no slum declaration either under Section 3C or Section 4 of the Slum Act, 1971. Secondly, the purported order under Section 3C(1) declaring the CTS No. 612 and 612/1 to 2 as a Slum Rehabilitation Area has been antedated. Mr. Balsara made an earnest endeavor to build his submissions on the aforesaid factual edifice.

21. First and foremost, Mr. Balsara would urge, in view of the Slum (Amendment) Act, 2017, a declaration under Section 3C(1),

1 2025 SCC OnLine SC 1795

2 2025 SCC OnLine SC 1794

3 (2018) 4 Bom CR 618

4 2024 SCC OnLine Bom 1632

is mandatory. In the absence of such a declaration under Section 3C(1) of the Slum Act, 1971, the SRA could not have entertained the application much less processed and accepted the same. The SRA has flouted its own policy of not entertaining an incomplete application. Therefore, being a statutory authority, Mr. Balsara would urge, it was not open for the SRA to deviate from the standard, the SRA had set for itself. Thus, the improper acceptance of the proposal to implement the SR Scheme at the subject property when the major portion of the same (1766 sq. mtrs.) was not declared a slum rehabilitation area subject to the condition of obtaining such declaration was completely beyond the remit of the power conferred on the SRA.

22. Mr. Balsara further submitted that, it is well neigh settled that, the SRA cannot process an incomplete application, nor is it legally impermissible to simultaneously consider multiple applications for implementation of the SR Scheme. Initially, the Petitioner – Trust had filed an application on 07th February, 2020 for the implementation of SR Scheme in respect of area admeasuring 615.2 sq. mtrs. out of CTS No. 612 and 612/1 to 2. Subsequently, another application was filed on 28th February, 2020 seeking a declaration that the balance area of 1766 sq. mtrs. be also declared a slum rehabilitation area under Section

3C(1) of the Slum Act, 1971. The second application could not have been entertained by the SRA. Since a substantial portion of Survey No. 612, 612/1 to 2 was a non-slum area, the proposal for the implementation of the SR Scheme over the entire area was inherently incompetent and could not have been processed further.

23. To lend support to the aforesaid submissions, Mr. Balsara placed reliance on the Division Bench judgment of this Court in the case of *Awdesh Vasistha Tiwari & ors. Vs. Chief Executive Officer, Slum Rehabilitation Authority & ors.*⁵, and a judgment of the Supreme Court in the case of *Pramila Suman Singh Vs. State of Maharashtra & ors.*⁶.

24. A very strong reliance was also placed by Mr. Balsara on a Division Bench judgment of this Court in the case of *Rajan Garg, Resolution Professional of Truly Creative Developers Pvt. Ltd., Vs. Chief Executive Officer, Slum Rehabilitation Authority & ors.*⁷, wherein the Division Bench explained the nature of the preferential right which the owner can exercise. Drawing heavily from the observations in the said judgment, especially Paragraph No.23 thereof, Mr. Balsara would submit that, the

5 (2006) 4 Mah LJ 282

6 (2009) 2 SCC 729

7 (2024) 3 AIR Bom R 746

owner could not have been permitted to progressively develop its case after initially having sought the permission to implement the SR Scheme with regard to an area of 615.2 sq. mtrs., only. Mr. Balsara also banked upon the decision of the Division Bench of this Court in the case of *Atesham Ahmed Khan & ors. Vs. Lakadawala Developers Pvt. Ltd. & ors.*⁸, wherein this Court enunciated that, it is the bounden duty of the applicant to ensure that the application is complete in all respects and does not suffer from any deficiency and it is impermissible to progressively improve upon a deficient and incomplete application over a period of time.

25. Lastly, Mr. Balsara submitted that, the SRA was bound to follow the procedure which it has delineated for itself. Since an incomplete application was not to be entertained in accordance with the Circular No. 196, the SRA was bound by the said non-statutory directive as well. To buttress these submissions, Mr. Balsara placed reliance on the Division Bench judgment of this Court in the case of *Persis Kothawalla Vs. Life Insurance Corporation of India & anr.*⁹, wherein it was enunciated that, even non-statutory guidelines are enforceable whenever they are deviated from, or when deviation is against public interest or

⁸ 2011 (3) Mh.L.J. 604

⁹ (2004) 4 Bom CR 610

undermines a public purpose. Such non-statutory guidelines can be enforced on the basis of promissory estoppel and legitimate expectation.

26. Mr. Sawant, the learned Counsel for Respondent Nos. 7 to 9 also supported the impugned order. It was urged that, the Respondent Nos. 7 to 9 are the heirs of the founder trustee. A revision application has been preferred against the order passed by the Assistant Charity Commissioner accepting the change in regard to the trustees of the Trust. Moreover, in the pleadings in Suit No. 389/2010, there is a reference to the dispute between the parties over the Trust and the Trust property and the plaintiff therein reserved their rights to deal with the allegations of breach of Trust by the Defendant Nos. 1 and 2 therein, and that implies there are disputes between the parties in regard to the subject property as well. Consequently, the AGRC was justified in recording a categorical finding that, there was a false assertion in the affidavit filed on behalf of the Petitioner regarding the absence of any litigation. Since the purported trustees were trying to usurp the Trust property by resorting to devious means, the AGRC has legitimately set aside the order of acceptance of the proposal to implement the SR Scheme on the subject property.

27. Mr. Kamat joined the issue by canvassing a submission that, there is no controversy over the fact that, the slums are situated over the subject property and, in fact, the Respondent No. 5 had called upon the Petitioner to implement the SR Scheme over the subject property. Thus, the existence of the slum and the necessity of implementation of the SR Scheme, can hardly be contested. Mr. Kamat would urge that, Circular No. 144A contemplates an in-principle approval for the implementation of the SR Scheme. The rights of the lawful occupants of the subject premises would be adequately protected when the proposal is finally accepted and the LOI is issued. Therefore, none of the grounds sought to be urged on behalf of the private respondents merit any consideration, submitted Mr. Kamat.

28. The aforesaid submissions now fall for consideration.

29. At the outset, it is necessary to clarify that, since a final order was passed by the AGRC, after providing an opportunity of hearing to Respondent Nos.7 to 9 as well, there is no propriety in examining the legality of the order of impleadment of Respondent Nos.7 to 9. thus, this Court considers it appropriate to delve into the legality and correctness of the final order dated 27th May, 2025.

30. A brief resume of the facts, especially the relevant orders passed by the SRA, would be advantageous for appreciating the rival contentions in a correct perspective.

31. To begin with, the existence and registration of the Petitioner – Trust is incontrovertible. It would be unwarranted to delve into the factors which bear upon the creation of the trust, the trustees thereof and the property of the trust, which legitimately fall within the province of the authorities under the Maharashtra Public Trust Act, 1950. Suffice to note that, the Change Report No.1349/2023 to report the subject property i.e. CTS No. 612 and 612/1 to 2 admeasuring 2381.50 sq. mtrs., as the property of the Trust and its inclusion in Schedule – III maintained by the Assistant Charity Commissioner, came to be accepted by an order dated 17th October, 2023. Indisputably, the Petitioner – Trust is shown as the owner of the subject property in the property card and the subject property is shown as the Trust property in the record maintained by the Charity Commissioner.

32. The endeavor on the part of the Respondent Nos. 7 to 9 to controvert the said position including, the appointment of the trustees of the Petitioner – Trust, cannot be countenanced in this proceeding. The Respondent Nos. 7 to 9 would be required

to work out their remedies as available in law before the competent forums.

33. With this clarity, as regards the ownership of the Trust over the subject property, the developments in the matter of implementation of the SR Scheme, relevant for the purpose of determination of this petition, deserve to be noted.

34. Initially, vide notification dated 13th October, 1977, an area admeasuring 5918.9 sq. mtrs., out of CTS No. 611, and area admeasuring 615.2 sq. mtrs. only, out of the subject property (Survey No. 612, 612/1 to 2), an area admeasuring 247.2 sq. mtrs., of CTS No. 613/1 to 5 were declared as a slum under Section 4(1) of the Slum Act, 1971. Although, there was a challenge to the said declaration, yet the fact remains that eventually the challenge was given up and the Petitioner filed the proposal for developing the subject property in accordance with Regulation 33(10) of the DCR and Circular No. 144A issued by the SRA.

35. The communication dated 07th February, 2020 (Exh. S) clearly records that, the said proposal was submitted under Regulation 33(10) of the DCR and in accordance with Circular No. 144A, and the comments of the concerned officers/stakeholders were invited. Further, the communication

dated 13th October, 2020 records that, a proposal for declaration of the balance area out of CTS No. 612 and 612/1 to 2 admeasuring 1766 sq. mtrs. as a slum rehabilitation area under Section 3C(1) of the Slum Act, 1971 was received on 20th February, 2020 and in view of the Slum (Amendment) Act, 2017, the action was required to be taken to declare the area which had been previously declared as a slum rehabilitation area under Section 3C(1) and, thus, the applicant/Petitioner herein had been informed to submit such a complete proposal.

36. The Deputy Collector, SRA, vide communication dated 07th July, 2021 conveyed his no objection for acceptance of the proposal subject to the condition of declaration of the area as slum rehabilitation area under Section 3C(1) of the Slum Act, 1971. Then comes the acceptance of the proposal noting dated 27th July, 2021. After adverting to the steps taken by, and comments received from, the various stakeholders, the SRA was persuaded to accept the proposal to implement the SR Scheme on CTS No. 612 and 612/1 to 2 subject to the following conditions :-

- 1) *That you shall submit proposal for grant of LOI within 3 month from date of receipt of this letter.*

2) *All the required documents in from of Annexure I to IV & VI will be submitted by you along with self-certification.*

3) *All the condition mention in DDTP (SRA) ow/2020/10665 dtd 06/03/2020 remarks shall complied with.*

4) *All the condition mention in DSLR (SRA) ow/2020/11457 dtd 12/03/2020 remarks shall complied with.*

5) *All the condition mention in Deputy Collector (SRA) ow/2020/24775 dtd 07/07/2021 remarks shall complied with.*

37. At this juncture, it would be apposite to note that, by an order dated 29th April 2024, the Chief Executive Officer, Slum Rehabilitation Authority, was persuaded to declare the land bearing CTS No. 612 and 612/1 to 2 admeasuring 2381.50 sq. mtrs., as slum rehabilitation area under Section 3C(1) of the Slum Act, 1971. In effect, the conditions subject to which the proposal was accepted were substantially fulfilled.

38. It would be necessary to immediately deal with the submissions of Mr. Balsara that, the said order is antedated. Mr. Balsara would urge that, the concerned officer, who passed the impugned order, was due to retire on 30th April, 2021. Thus, an order was shown to have been passed on 29th April, 2024. The fact that, the order bears the date 02nd May, 2024 and in

the opening part of the order, the date is left blank, clearly indicates that, the order is antedated, submitted Mr. Balsara.

39. I am afraid to accede to these submissions. The Chief Executive Officer, Slum Rehabilitation Authority has signed the said order with the date i.e. 29th April, 2024. Indeed, a stamped date 02nd May, 2024 appears below the outward number under which the said order was issued. However, that, by itself, is not sufficient to draw an inference that the said order is antedated. The subsequent notifications also bear the signature and date put by the then Chief Executive Officer, Slum Rehabilitation Authority, though, the stamped date of 02nd may, 2024 find mentioned thereon. It is not inconceivable that, after the declaration is made by the Chief Executive Officer, Slum Rehabilitation Authority, under Section 3C(1), the formal notifications are issued and the said order is also released on the succeeding days. Therefore, the stamped date of 02nd May, 2024 does not inexorably imply that, the order of declaration of the slum rehabilitation area by the Chief Executive Officer, Slum Rehabilitation Authority was antedated.

40. With the aforesaid clarity on facts, I deem it appropriate to deal with the reasons which weighed with the AGRC in interfering with the acceptance of the proposal to implement the

SR Scheme, and then move to the legal submissions canvassed on behalf of the parties, in regard to the justifiability of the order of acceptance of the proposal.

41. As noted above, the first reason that impressed the AGRC was the absence of the consent and General Body Resolution of the Respondent No. 5 – Society for implementation of the SR Scheme by the Petitioner. The AGRC, seems to have conflated the requirements under Circular Nos.144 and 144A. Indeed, under Circular No.144 issued by the SRA, it was necessary to examine whether 70% of the occupants had given their consent to participate in the redevelopment scheme and supported the resolution to appoint a developer.

42. However, by Circular No. 144A, which was issued by the SRA in recognition of the preferential rights of the land owner to implement the SR Scheme under Section 13(1) of the Slum Act, 1971, modifications were made to the said Circular No. 144. *Inter alia*, the condition of the necessity of submitting of Annexure – 5 spelling out the consent of 70% of the occupants stood relaxed. It has been further provided under Circular No. 144A that, after determination of the eligibility of the slum dwellers in the scheme, according to the rules of the Slum Rehabilitation Authority, the consent of the slum dwellers,

required by the developer would be re-examined. Circular No. 144A thus dispenses with, the requirement of the consent of the occupants for the implementation of the SR Scheme where the scheme is implemented by the owner, in exercise of its preferential right to develop the property over which the slum stands.

43. The contours of the preferential right of the owner of the property and the primacy thereof, in the matter of the development of the land could be adverted to a little later. At this juncture, it would suffice to note that, the AGRC though noted the submissions on behalf of the Petitioner that the proposal was under Circular 144A and, thus, the consent of the Society was not peremptory, yet, failed to apply the governing provisions and thus erred in interfering with the order of acceptance by importing the parameters contained in Circular No.144, which stood relaxed by Circular No. 144A.

44. The second ground of a false statement in the affidavit filed on behalf of the Petitioner, on 18th February, 2020, that no litigation in respect of the subject property was pending in any Court of law or before any competent authority, appears to be equally infirm. Pertinently, the AGRC has not explicitly referred to the proceedings on account of which, it could draw an

inference that a false statement was made in the affidavit regarding absence of any proceeding in respect of the subject property. From a perusal of the observations in the impugned order, especially Paragraph No. 93, one could discern that, in the contemplation of AGRC, the pendency of suit No. 389/2010 filed on behalf of the legal heirs of Ramniklal Bhuta and Suit No. 3148/2009 filed by Jaysukhlal Bhuta amounted to the pendency of the proceedings in respect of the subject property. Incontrovertibly, the subject property does not form the subject matter of either of the suits. In none of these suits, the subject property is designated as the suit property. This becomes abundantly clear from the averments in the Suit No. 389/2010 instituted by Vasantben Bhuta and others, wherein in Paragraph No. 20, it has been categorically asserted that, the subject matter of the public Trust (consequently the subject Trust property) is not the matter pertaining to the said suit and the plaintiffs reserved their rights to deal with the same for breaches of Trust before the appropriate forum.

45. A feeble attempt was made on behalf of Respondent Nos. 7 to 9 to urge that, the said assertions in the plaint implied that, there are disputes between the parties in respect of the subject property as well. This submission is required to be stated to be

repelled. Any challenge to the appointment of the trustees or in the matter of the management of the affairs of the Trust is beyond the realm of, and is completely alien to the inquiry, by the authorities under the Slum Act, 1971.

46. The material on record thus justifies an inference that, the AGRC committed a grave error in interdicting the acceptance of the proposal for the implementation of the SR Scheme on the premise that, a false statement was made on an affidavit, without examining the facts at all. Therefore, the impugned order cannot be sustained on either of the grounds.

47. This propels me to the submissions sought to be canvassed before this Court on behalf of the Respondent Nos. 5 and 6 to demonstrate that acceptance of the proposal of the Petitioner was otherwise legally unsustainable.

48. A two-pronged submission was advanced by Mr. Balsara. The initial proposal for implementation of the SR Scheme in regard to the land bearing CTS No. 612 and 612/1 to 2 dated 07th February, 2020, could not have been processed, as it pertained to a large non-slum area. The subsequent proposal to declare the balance area of 1766 sq. mtrs., as a slum rehabilitation area under Section 3C(1) of the Slum Act, 1971 could not have advanced the case of the Petitioner, as it was

legally impermissible to progressively improve upon the proposal.

49. In the case of *Awdesh Vasistha Tiwari (supra)*, on which a strong reliance was placed by Mr. Balsara, a Division Bench of this Court delved into the question as to the manner in which the scheme under Regulation 33(10) of the DCR should be implemented. After an analysis of the scheme under Regulation 33(10), the Division Bench held that, if 70% of the slum dwellers on a particular area come together and apply after formation of proposed co-operative housing society, the said application has to be independently considered in accordance with law. The scheme does not contemplate simultaneous consideration of such an application made by a proposed society with an application subsequently made by another proposed Society relating to same land. The Applicant Society has to have 70% support which obviously two societies cannot have. The application received first is to be processed first independently. If it fails to get 70% support, Second Application can be examined. The obvious intention is to avoid unhealthy competition between the different builders who are interested in supporting such societies. If such a course of simultaneous consideration is permitted to be adopted, unscrupulous persons

and builders will try to win over the hutment dwellers who have supported the application made earlier by another society.

50. In the case of ***Pramila Suman Singh (supra)***, the Supreme court, exhaustively examined the procedure for submission, processing and approval of the slum rehabilitation scheme. It was, *inter alia*, noted that, the scheme envisages allotment of computerized file number to the scheme on payment of scrutiny fees and, upon an acceptance, the scrutiny of Annexures I, II and III starts simultaneously in the Building Permission Wing, Eligibility Certification Wing and Accounts & Finance Wing, respectively.

51. In the case of ***Atesham Ahmed Khan (supra)***, another Division Bench of this court, enunciated that, an application which on its face does not fulfill the requirement of DCR 33(10), must be rejected. The applicant cannot be allowed to progressively make up a deficiency in an application which does not *ex facie* fulfill the conditions on the date when it was submitted.

52. Adverting to the decision of ***Awdesh Vasistha Tiwari (supra)***, the Division Bench observed that, since the effect of the acceptance of the first application is to exclude from scrutiny all other applications until the scrutiny of the first application is

complete, it is the bounden duty of the applicant to ensure that the application is complete in all respects and does not suffer from any deficiency. Any other construction would lead to the undesirable result that an application which is otherwise deficient and incomplete can progressively be improved upon over a prolonged period of time leading to a delay in the implementation of the Slum Rehabilitation Scheme.

53. There can be no quarrel with the aforesaid propositions in law. The processing of the first proposal and arriving at a logical conclusion regarding its acceptance or otherwise is necessary to avoid the mischief that may occur if the proposals are simultaneously processed as the developers may adopt unscrupulous methods to win over the support of the occupants who had already given their support to the first developer. However, if a proposal howsoever incomplete and shoddy is given the status of a proposal, there is clear and present danger of proposals being submitted without any commitment so as to gain the benefit of first come first serve policy and simply reserve the right and claim primacy in the processing of the proposal. Therefore, an incomplete proposal cannot be permitted to be processed by progressively removing the deficiencies.

54. The aforesaid pronouncement, which primarily arose out of situations where two rival developers submit the proposals backed by a set of the occupants, strictly do not govern the facts of the case at hand. In the instant case, the Petitioner professes to develop the subject property of which it is the owner. Moreover, it could not be shown that, any rival proposal awaited consideration by the SRA. Therefore, the case of the Petitioner would be governed by an altogether different legal regime. That brings to the fore the concept of the preferential right of the owner to develop the property over which the slum stands.

55. The legislative framework before it suffered the amendment by Slum (Amendment) Act, 2017, deserves to be noted. In the year, 1995, Chapter I-A which subsumes a fasciculus of the provisions, came to be inserted in the Slum Act, 1971 to introduce a new framework for slum rehabilitation. Section 3A provides for appointment of the Slum Rehabilitation Authority to facilitate and regulate the re-development process. Section 3B incorporates the power and duty of the SRA to prepare the general slum rehabilitation scheme for the area covered by the SRA.

56. Section 3B(4)(e) of the Slum Act, 1971 provides that, there can be a slum rehabilitation scheme propounded by the

landholders and occupants themselves or through a developer with an option to SRA for taking up such development in the event of the failure on the part of the land owners or occupants.

57. Section 3C provides for the declaration of an area as a slum rehabilitation area. Section 3C(1) *inter alia* provided that, as soon as may be, after the publication of the Slum Rehabilitation Scheme, the Chief Executive Officer on being satisfied about the circumstances in respect of any area, justifying its declaration as Slum Rehabilitation Area under the said scheme may by an order published in the *Official Gazette*, declare such are to be a “Slum Rehabilitation Area”. Such order is required to be given wide publicity. Sub-Section (2) of Section 3C(1) provided for an appeal against such a declaration to the special tribunal.

58. Section 3D contains the provisions for the application of the other chapters of Slum Act, 1971 to an area declared as slum rehabilitation area. Sub-Section (10) of Section 12 of the Slum Act, 1971 stood modified to provide that where a clearance order has become operative, the owner may redevelop the land in accordance with the plans approved by SRA.

59. *Likewise*, Section 13 came to be substituted for the original Section 13 in the Slum Act, 1971. Section 13(1) as

modified under Chapter I-A of the Slum Act, 1971, *inter alia* provides that, notwithstanding anything contained in Sub-Section (10) of Section 12, the Slum Rehabilitation Authority may after any area is declared as slum rehabilitation area, if the landholders or occupants of such area do not come forward within a reasonable time with a scheme for re-development of such land, by order determine to re-develop such land by entrusting it to any agency for the said purpose.

60. A conjoint reading of the aforesaid provisions would indicate that under the scheme of the Slum Act, 1971, once the land is declared as slum rehabilitation area, ordinarily it has to be redeveloped under a slum rehabilitation scheme. However, if a clearance order is passed in respect of such land, before a slum rehabilitation scheme is envisaged or implemented then the owner of the land may develop such land in terms of the right conferred under Section 12(10).

61. Section 13(1) makes it abundantly clear that, notwithstanding anything contained in Section 12(10), the SRA can launch a scheme for re-development of slum rehabilitation area in the event the landlord or occupants of such area do not come forward within a reasonable time with a scheme for re-development. The re-development under the Slum Act, 1971,

thus provides for a definite role and opportunity to the land owner to implement the SR Scheme.

62. In the case of *Tarabai Nagar Co-op. Housing Society (supra)*, the Supreme Court after an elaborate analysis of the provisions of the Slum Act, 1971 and the scheme of redevelopment enunciated in clear and explicit terms that, a logical reading of Sections 3B(4)(e) and 13(1) makes it clear that, the SRA's power to undertake redevelopment can only be invoked, if the owner extinguishes its right to redevelop. The owner's right to redevelop an SR area thus holds preference over that of SRA within Chapter I-A of the Slum Act, 1971.

63. The Supreme Court further postulated the primacy of the owner's right over the other stakeholders observing *inter alia* as under :-

"59. The peremptory right of redevelopment vested in the landowner does not militate against the rights of the slum dwellers. As explained earlier, if the landowner does not come up with a redevelopment proposal within a reasonable time, the occupants of the SR Area are entitled to submit their own proposal for redevelopment, empowering this marginalised section of our urban society. It enables them to forward an SR Scheme through a willing developer when the owner is not ready to support their endeavour to rehabilitate themselves.

60. Therefore, there is no tenable reason, in law or in equity, to allow the occupants to exercise primacy over and steamroll the landowner's proposal, especially when the

latter is willing to implement the SR Scheme by itself, within the confines of the Slums Act. If the interpretation suggested by the Appellants is accepted, we would inevitably incentivise third-party developers and anti-social elements to prop up the poor slum dwellers so as to grab the land from the true owners. It would ultimately encourage mala-fide proposals to be filed, manipulating the inhabitants of these slums and stripping the owners of the fruits of their land.

61. We are also not inclined to accept the proposed equivalence of the rights, given the fact that the SRA has recognised the legislative preference granted to the owner or landlord in Circular No. 144-A dated 09.11.2015, which stipulates that “the first right to file the Slum Rehabilitation scheme is of the owner of the land.” By relaxing the requirement of consent of seventy percent of the slum occupants, it depicts a clear intention on behalf of the SRA that the occupants cannot override the owner’s proposal for an SR Scheme.

62. The learned Senior Counsel for ICM have also placed on record various notices issued by the SRA to owners of different SR Areas, expressly inviting them to exercise their “first preferential right for implementation of the Slum Rehabilitation Scheme.” They have further relied upon internal communications between the SRA and the State, where both sides have seemingly acknowledged that the owner has the first right to develop the land.

63. In light of the overwhelming material on record, which is in conformity with legislative intent, there can be no other conclusion but to deduce that a landowner has the first right among stakeholders to undertake redevelopment under an SR Scheme.

(emphasis supplied)

64. The Supreme Court has enunciated in clear and explicit terms that, the Circular No. 144A issued by the Slum

Rehabilitation Authority recognizes the legislative preference granted to the owner or the landlord by recording that, the first right to file Slum Rehabilitation scheme is that of the owner of the land. By relaxing the requirement of consent of 70% of the slum occupants, Circular No. 144-A depicts a clear intention on behalf of Slum Rehabilitation Authority that the occupants cannot override the owner's proposal for implementation of a SR Scheme. Resultantly, it cannot be gainsaid that, a land owner has the first right among the stakeholders to undertake redevelopment under a Slum Rehabilitation scheme.

65. In the case of *Saldanha Real Estate Pvt. Ltd. (supra)*, the Supreme Court considered the import of Slum (Amendment) Act, 2017, on the preferential right of the landlord. Repelling the submissions that, as a consequence of 2017 Amendment, there is no statutory requirement to issue a separate notice for initiation of proceedings under Section 13 of the Slum Act, 1971, to the landlord, the Supreme Court enunciated that, no attempt has been made to remove or dilute the preferential right given to the owner to redevelop an SR area. The Supreme Court observed that, all those provisions which have been analyzed in *Tarabai Nagar Co-op. Housing Society Ltd. (supra)*, lead to only one conclusion, i.e. that the owner has a primary right to

undertake development, and none of the provisions have been amended. Rather the owner's right is now further entrenched into the legislative scheme, with the addition of the term "owner" into the text of Section 3B(5) and 13 of the Slum Act, 1971. The legislature has, thus, expressly acknowledged the distinct rights enjoyed by the owner or a landlord within Chapter I-A.

66. It was further enunciated that, keeping in mind the fact that, Section 3C and 13 operate in different directions and for different purposes, what is deemed to be mandated under Section 13 cannot be rendered moot by the stipulations in Section 3C. Therefore, the plea of the appellants therein that, the new mechanism within Section 3C no longer necessitated a separate notice-cum-invitation on the land owner, cannot be accepted. The Supreme Court thus rejected the contentions on behalf of the appellants therein that post 2017th Amendment, the owner is expected to present a SR Scheme within 120 days of Section 3C(1) declaration without any notice-cum-invitation.

67. In view of the aforesaid nature of the preferential right of the owner to develop the SR Scheme, even after the 2017 Amendment, the submission that the application preferred by the Petitioner - Trust to implement the SR Scheme over the subject land which it owns, could not have been processed and

accepted, does not hold any ground. As noted above, no other rival proposal was under consideration. Even otherwise, the owner has a preferential right to develop the SR Scheme amongst the stakeholders who are entitled to develop the SR Scheme including the occupants of the land.

68. It is also imperative to note that, it is nobody's case that, the subject land did not deserve to be declared as a slum rehabilitation area. Even in the proceedings under Section 3C(1) before the Chief Executive Officer, Slum Rehabilitation Authority, the Respondent No. 5 Society did not claim that, the declaration as a slum rehabilitation area was not warranted. The application of the Petitioner was opposed on other grounds. Thus, the declaration of the subject land as the slum rehabilitation area can hardly be faulted at. Even otherwise, in view of the provisions contained in Section 3, any person aggrieved by such declaration has the remedy of appeal. The issue of declaration of Slum Rehabilitation Area cannot be, thus, legitimately agitated in this petition.

69. The only issue that bothers the Court is the acceptance of the proposal for redevelopment of the SR Scheme, awaiting a declaration under Section 3C(1) of the Slum Act, 1971. At this juncture, it is necessary to note that, indubitably the entire area

of 2381.50 sq. mtrs. was not declared as the slum area under Section 4 of the Slum Act, 1971 or slum rehabilitation area under Section 3C(1) of the Slum Act, 1971, as of 07th February, 2020, the day the application for implementation of the SR Scheme over CTS No. 612 and 612/1 to 2 was filed. Indisputably, only an area of admeasuring 615.2 sq. mtrs., was declared a slum under Section 4 of the Slum Act, 1971, vide notification dated 13th October, 1977. Could the authorities have accepted the proposal for implementation of the SR Scheme under Regulation 33(10) alongwith Circular 144A subject to the condition of obtaining such declaration under Section 3C(1) of the Slum Act, 1971, is the moot question. Section 3C of the Slum Act, 1971, post the 2017 Amendment, reads as under :-

“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.]”

70. A bare perusal of the amended Section 3C(1) makes it abundantly clear that, the declaration under the said Section can only be made after publication of slum rehabilitation scheme. Secondly, such declaration can be made if the chief executive officer is satisfied about the circumstances in respect of any land justifying its declaration of the slum rehabilitation area for implementing the slum rehabilitation scheme. Thirdly, previous declaration as a slum area, or otherwise does not bear upon the necessity of such a declaration. Irrespective of previous declaration as slum area, the Chief Executive officer if satisfied about the necessity of a declaration shall make such a declaration that the said land (even if previously declared as slum) shall be considered as slum rehabilitation area. Fourthly, the Chief Executive Officer is enjoined to give the land owners, 30 days notice and reasonable opportunity of being heard before making such declaration.

71. A declaration under sub-Section (1) of Section 3C is a pre-condition for implementation of the slum rehabilitation scheme in respect of such area. The modification introduced in Section 13 of the Slum Act, 1971, post the 2017 Amendment, makes the position abundantly clear. Section 13(1), *inter alia* provides that, notwithstanding anything contained in Section 12(10), the Chief

Executive officer shall after any land has been declared as Slum Rehabilitation Area, if the owners, landlords, landholders or occupants of such land do not come forward within a reasonable time, which shall not be more than 120 days, required for relocation or rehabilitation of protected and other occupiers justifying with the slum rehabilitation scheme for redevelopment of such land, by order, determine to redevelop such land by entrusting to any agency or other developer for the purpose. By virtue of 2017 Amendment, the reasonable time within which the owner was to evince interest to develop the slum rehabilitation area has been qualified by employing the expression, "which shall not be more than 120 days".

72. The aforesaid being the import of the amendment introduced by Slum Act, 1971, in the peculiar facts of the case, in the considered view of this court, the authorities could not have proceeded with the proposal for implementation of the SR Scheme over the subject property in the absence of the declaration under Section 3C(1). The fact that, a smaller portion of subject property i.e. an area admeasuring 615.2 sq. mtrs., was already declared a slum under Section 4 of the Slum Act, 1971 was of no consequence. In view of the mandate contained in amended Section 3C(1) irrespective of the previous

declaration as a slum area, it was necessary for the Chief Executive Officer, Slum Rehabilitation Authority to make a declaration as slum rehabilitation area for the purpose of implementation of the slum rehabilitation scheme in relation thereto.

73. The preferential right of the landlord to implement the SR Scheme under Section 13(1) of the Slum Act, 1971 would trigger after the land is declared as a slum rehabilitation area. The corresponding obligation of the landlord to evince interest (upon being put to notice) to develop the slum rehabilitation area arises only after a declaration is made under Section 3C(1) of the Slum Act, 1971. Therefore, the fact that, on 29th April, 2024, a declaration was made under Section 3C(1) of the Slum Act, 1971 would not enure to infuse life and validity into the order of acceptance of proposal to implement the SR Scheme dated 27th July, 2021, when a major portion of the subject property i.e. 1766 sq. mtrs., of the land was neither declared a slum nor slum rehabilitation area.

74. The conspectus of the aforesaid consideration is that, for reasons, other than those which weighed with the Apex Grievance Redressal Committee, the order of acceptance of the proposal to implement the SR Scheme dated 27th July, 2021,

cannot be sustained. Nonetheless, having regard to the preferential right of the Petitioner and the primacy accorded to the Petitioner-owner of the subject land in the implementation of SR Scheme, this Court considers it appropriate to grant liberty to the Petitioner to submit a fresh SR Scheme to develop the slum rehabilitation area declared under Section 3C(1) of the Slum Act, 1971 by order dated 29th April, 2024 and direct the authorities to process the same, in accordance with law, within a stipulated period. The writ petition, therefore, deserves to be partly allowed.

75. Hence, the following order :-

:: O R D E R ::

i] The Writ Petition stands partly allowed in the following terms :-

a) The impugned order setting aside the acceptance of the proposal to implement the SR Scheme dated 27th July, 2021, stands affirmed, albeit for different reasons.

b) The Petitioner is granted liberty to submit a fresh proposal for implementation of the slum

rehabilitation scheme on the basis of declaration under Section 3C(1) of the Slum Act, 1971 dated 29th April, 2024 within a period of four weeks from today.

c) The Respondent Nos. 2 to 4 and the Competent Authorities shall process such proposal as expeditiously as possible in accordance with governing rules and procedure within a period of two months of the receipt of such proposal.

d) The proposal to be submitted by the Petitioner shall be processed first and in priority over any other proposal that might have been submitted in the intervening period or may be submitted hereinafter.

e) It will not be open for the authorities to reject the proposal, which may be submitted by the Petitioner, on the grounds on which the Apex Grievance Redressal Committee had set aside the acceptance by the impugned order and the said proposal shall be processed

without being influenced by any of the
observations in the impugned order.

- ii] Rule made absolute in the aforesaid terms.
- iii) No costs.

[N. J. JAMADAR, J.]