

SLUM REHABILITATION AUTHORITY

**BEFORE THE CHIEF EXECUTIVE OFFICER,
MUMBAI METROPOLITAN REGION SLUM REHABILITATION
AUTHORITY,
THANE (WEST)**

Shivanand CHS (Prop.)
Through Chief Promoter Shri. Ravindra Bhaur,
Final Plot No.33(Pt), Sambhaji Nagar,
Opp. Nitin Company, Near Korum Mall,
Service Road, Panchpakhadi,
Thane - 400 604

... Applicant

1. Mr. Surendra Krishnaji Dabholkar
Dabholkar House, Edulji Road, Charai,
Thane - 400 601
2. Mr. Ramesh Jagannath Jadhav,
15 Roopshree, Dr. Moose Road, Talavpali,
Thane - 400 602
3. Mr. Ajay Purushottam Deshpande,
A-4, Raunak Park Society, Flat No.101,
Pokhran Road No.2, Kokani Pada,
Thane

... Respondents

ORDER

(Passed on **26 DEC 2023**)

These proceedings are initiated pursuant to the application of Applicant i.e. Shivanand CHS (Prop.) dated 08.05.2023 submitted u/s 3C (1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 for declaration of land bearing Final Plot No.33(Pt.), TPS-1, Mauje Pachpakhadi, Taluka Thane, area admeasuring 2192.90 sq. mtrs. as "Slum Rehabilitation Area". Hereinafter the above said land is referred to and called as "said land". In brief the facts which lead to the present proceedings are as under;

FACTS IN BRIEF:

The Applicant submitted the present application u/s 3C (1) of the Maharashtra Slum Areas (I, C, & R) Act, 1971 in respect of declaration of said land as "Slum Rehabilitation Area". Alongwith application the Applicant submitted copies of P R Card, Slum Plan etc. Pursuant to said application the Executive Engineer, Mumbai Metropolitan Region, Thane vide letter dated 09.05.2023 sought report of the Deputy Director Land Records/SRA. The Deputy Director Land Records /SRA submitted his report to Executive Engineer, Mumbai Metropolitan Region, Thane along with GIS plan on 15.05.2023. As per his report the land bearing Final Plot No.33(Pt.), TPS-1, Mauje Pachpakhadi, Taluka Thane, area admeasuring 2192.90 sq. mtrs. is liable to be declared as "Slum Rehabilitation Area". The report further reveals that the said land is owned by Mr. Surendra Krishnaji Dabholkar.

On 26.05.2023 the Executive Engineer, Mumbai Metropolitan Region, Thane/SRA and Deputy Director Land Records/SRA jointly visited the site and submitted the site visit report of the said land. The said site visit report is on record and forms a part of these proceedings. At the time of visit, they have noticed that the conditions prevailing on said land are like slum and the said area lacks basic amenities and is unfit for human habitation. Most of the structures are pakka structures. Some of the structures are of ground floor and some are ground + 1 floor. Most of structures are being used for residential and some structures are being used for commercial purpose. The structures are situated closely and in congested manner. The internal roads are narrow. Water logging occurs in rainy season and there is lack of proper sunlight and ventilation. There is open space on site and same is used by occupants for public purpose. They have also observed that there is no hygiene and these structures are a source of danger to human life.

A Public Notice dated 08.06.2023 was published in Marathi and English daily newspapers "Janadesh" & "Lokmat" and "The Free Press Journal" on 10.06.2023 inviting objections if any from general public/interested parties to the proposed declaration. The public notice is also displayed on the official website of SRA on 09.06.2023. It appears

that the said land is owned by Respondent No.1. So, the notice for declaration of the said land as Slum Rehabilitation Area is given to Respondent No.1 on 09.06.2023.

Notices were issued to the Respondents as well as Applicant and matter is heard on 22.08.2023 & 04.10.2023. On 04.10.2023, Advocate Prashant Jadhav for Applicant society remain present. Advocate Shreedhar Patkar appeared on behalf of Respondent No.1. Advocate Mandar Patil for Respondent No.3 also remain present. Heard the parties and matter was closed for order.

ARGUMENT OF APPLICANT

According to Applicant, they have formed proposed Shivanand CHS on said land. They are living in inhuman conditions due to lack of sanitation facility, lack of drainage, toilets, etc. It is further version of Applicant that Final Plot No.33(Pt), total admeasuring 4354.38 sq. mtrs. is in their occupation since prior to year 1985. The landowner failed and neglected to develop the said land or rehabilitate slum dwellers on said land. The Mumbai Metropolitan Region, Slum Rehabilitation Authority came into existence on 08.09.2020 and UDCPR 2020 is made applicable. Accordingly they have submitted an application for declaration of said land as Slum Rehabilitation Area u/s 3C of the Maharashtra Slum Areas (I, C & R) Act, 1971. A public notice is issued on 08.06.2023 for declaration of said land in respect of 2192.90 sq. mtrs. The Respondent No.1 & 3 submitted their objections on 06.07.2023 & 05.07.2023 respectively.

With respect to objection submitted by Respondent No.1, the Applicant stated that Respondent No.1 has accepted the existence of slum dwellers on said land since prior to the year 1985 and since then no attempt was made to rehabilitate the slum dwellers by Respondent No.1. It is further version of Applicant that prior to year 1985 the said land was Government land and till date Respondent No.1 has not submitted any rehabilitation proposal of slum dwellers. According to Applicant the order dated 22.02.1996 passed by the Hon'ble High Court in Writ Petition No.6329 of 1987 is passed prior to 28 years and proceedings u/s 3C of the Maharashtra Slum Areas (I, C & R) Act, 1971

cannot be withheld due to order of Hon'ble High Court dated 22.02.1996. According to Applicant while obtaining the order from Hon'ble Court, the Respondent No.1 concealed the several facts such as father of Respondent No.1 Shri Krishnaji Dabholkar through Deed of Conveyance dated 26.05.1987 has conveyed part of land bearing Final Plot No.33 of TPS-1, admeasuring 2000 sq. mtrs. to M/s. Area Distributers HP Lubricants. In said Conveyance Deed it is mentioned by Krishnaji Dabholkar that he is in occupation and possession of land bearing Final Plot No.33 of TPS-1 and building is standing on said land and Thane Municipal Corporation has granted Occupation Certificate on 19.09.1993. The remaining portion of land bearing Final Plot No.33(Pt) of TPS-1, admeasuring 2192 sq. mtrs. is sought to be declared as Slum Rehabilitation Area.

According to Applicant, the Respondent No.1 & 2 are interested in delaying rehabilitation of slum dwellers by creating obstructions. The Respondent No.2 has no locus standi to raise objection for present declaration. With respect to objection raised by Respondent No.3 it is submitted by Applicant that he has no concerned with said land and therefore have no locus standi to raise objection. On these grounds the Applicant has prayed for declaration of said land as Slum Rehabilitation Area.

ARGUMENT OF RESPONDENT NO.1 & 2

Advocate Shreedhar V. Patkar submitted an objection on behalf of Respondent No.1 & 2 on 06.07.2023. According to Respondent No.1 & 2, one late Mr. Krishnaji Somaji Dabholkar was absolute owner in respect of land bearing Survey No.196, Hissa No.1, Hissa No.192, Hissa No.1/1(Pt), 3/1(Pt) & Survey No.196, Hissa No.2/1 totally admeasuring about 6229 sq. mtrs. area at Village Panchpakhadi and the same was affected by Town Planning Scheme No.1 of Thane. In lieu of said land, the deceased Krishnaji Dabholkar was allotted Final Plot No.33 of Town Planning Scheme No.1 admeasuring 4354.38 sq. mtrs. The said deceased Krishnaji Dabholkar filed Writ Petition No.6329 of 1987 in Hon'ble High Court seeking direction to Thane Municipal Corporation to remove encroachments from Final Plot No.33 of TPS-1 and hand over

possession to Mr. Krishnaji Dabholkar. The said Writ Petition is allowed by Hon'ble Court through order dated 22.02.1996 with directions to Thane Municipal Corporation to deliver vacant and peaceful possession of Final Plot No.33 of TPS Scheme No.1 within one year from the date of order to Mr. Krishnaji Dabholkar. The said Mr. Krishnaji Dabholkar died intestate at Thane leaving behind his widow Smt. Sumati Krishnaji Dabholkar, two sons i.e. (1) Mr. Janardhan Krishnaji Dabholkar & (2) Mr. Surendra Dabholkar and three daughters i.e. (1) Mrs. Arundati Sashikant Desai, (2) Mrs. Ratnamala Mayekar and (3) Mrs. Kalpana Shivalkar.

According to Respondent No.1 & 2, the other legal heirs have released their rights in favour of Respondent No.1 on the terms and conditions mentioned in Release Deed dated 18.08.2009. The name of Respondent No.1 is duly recorded in property card. Through Agreement for Sale dated 21.03.2015, the Respondent No.1 has agreed to sell the said land bearing F.P. No.33 of TPS-1, Thane totally admeasuring 2264.38 sq. mtrs. to Respondent No.2. It is further version of Respondent No.1 & 2 that inspite of order of Hon'ble High Court dated 22.02.1996, till date Thane Municipal Corporation did not deliver possession of Final Plot No.33 of TPS No.1 to Respondent No.1. The Respondent No.1 has also executed registered Power of Attorney dated 19.04.2023 in favour of Respondent No.2 in respect of said land. According to Respondent No.1 & 2 at the time of survey in order to show the larger area as encroached the Applicants has erected pandals on open spaces. On these grounds the Respondent No.1 & 2 requested to reject the application.

ARGUMENT OF RESPONDENT NO.3

Advocate Mandar P. Patil submitted an objection on behalf of Respondent No.3 on 05.07.2023. According to Respondent No.3 one late Mr. Krishnaji Somaji Dabholkar was absolute owner in respect of said land. The said Mr. Krishnaji Dabholkar is expired and represented by his son Mr. Surendra Dabholkar. It is further version of Respondent No.3 that Late Krishnaji Dabholkar had agreed to sell the said land to his mother Smt. Sharayu Deshpande and accordingly Agreement for

Sale dated 07.04.1979 was executed and entered into between Late Krishnaji Somaji Dabholkar and Late Sharayu Deshpande. It is alleged by Respondent No.3 that even after receiving sale consideration amount Late Krishnaji Dabholkar did not fulfill the agreed terms and conditions as per agreement to get 230A clearance and ULC clearance for registering the Conveyance Deed and therefore Late Sharayu Deshpande was required to file Civil Suit No.373 of 1999 against Krishnaji Dabholkar for specific performance of contract and said Suit is still pending before City Civil Court, Thane. The issue of ownership is subjudice in Court and therefore the Respondent No.3 requested not to take decision for declaring the said land as Slum Rehabilitation Area. According to Respondent No.3 Krishnaji Dabholkar has put them in possession of encroached land and open land as per possession receipt on 03.10.1979.

According to Respondent No.3, Krishnaji Dabholkar filed Writ Petition No.6329 of 1987 in Hon'ble High Court to vacate slum dwellers on said land. The said Writ Petition is allowed by Hon'ble Court through order dated 22.02.1996 with directions to Thane Municipal Corporation to deliver vacant and peaceful possession of Final Plot No.33 of TPS Scheme No.1 within one year from the date of order to Mr. Krishnaji Dabholkar. But due to political intervention, Late Shri Purshottam Deshpande and Late Sharayu Deshpande stopped the Thane Municipal Corporation from vacating the land. According to Respondent No.3 her mother Sharayu Deshpande forced Krishnaji Dabholkar to file application on 19.01.1992 to withdraw petition and not to make the slum dwellers homeless. There is no slum like situation on said land and there is proper provision of sanitation as well as basic amenities. According to Respondent No.3 as per their private survey out of area admeasuring 2192 sq. mtrs., the 1022 sq. mtrs. is occupied by slum dwellers and 1192 sq. mtrs. is shown as open area. On these grounds the Respondent No.1 & 2 requested to reject the application.

ISSUES AND DISCUSSION

The issue for consideration is whether the said land is liable to be declared as Slum Rehabilitation Area or not.

The Applicant has submitted the present Application u/s 3 C (1) of the Maharashtra Slum Areas (I, C & R) Act, 1971. According to Applicant, the said land lacks basic amenities like drinking water, street lights, roads, ventilation etc. and the slum dwellers residing there are living in unhygienic condition. The record reveals that Deputy Director Land Records/SRA has submitted report alongwith GIS plan on 15.05.2023, wherein it is mentioned that the land bearing Final Plot No.33(Pt.), TPS-1, Mauje Pachpakhadi, Taluka Thane, area admeasuring 2192.90 sq. mtrs. is liable to be declared as "Slum Rehabilitation Area.". The joint site visit report of the Executive Engineer, Mumbai Metropolitan Region, Thane/SRA and Deputy Director Land Records/SRA dated 26.05.2023 clearly reveals that, the conditions prevailing on said land are like slum and there is lack of basic amenities and it is unfit for human habitation. There is no proper sanitation which may become source of danger to human life. This Authority do not find any reason to discard the site visit report dated 26.05.2023.

The Applicants have also submitted photographs of structures on said land alongwith application dated 08.05.2023. From these photographs it clearly appears that the pathways are narrow. There is categorical observation of Deputy Director Land Records/SRA and Executive Engineer, Mumbai Metropolitan Region, Thane/SRA to that effect. This Authority do not find any reason to discard their report.

According to Respondents, said deceased Krishnaji Dabholkar filed Writ Petition No.6329 of 1987 in Hon'ble High Court seeking direction to Thane Municipal Corporation to remove encroachments from Final Plot No.33 of TPS-1 and hand over possession to Mr. Krishnaji Dabholkar. The said Writ Petition is allowed by Hon'ble Court through order dated 22.02.1996 with directions to Thane Municipal Corporation to deliver vacant and peaceful possession of Final Plot No.33 of TPS Scheme No.1 within one year from the date of order to Mr. Krishnaji Dabholkar. From copy of order dated 22.02.1996 it appears that late Mr. Krishnaji Somaji Dabholkar was owner in respect of land bearing Survey No.196/1, 192/1/1B, 192/2/1B & Survey

No.196/2/1B and the same was affected by Town Planning Scheme No.1 of Thane. In lieu of said land, the deceased Krishnaji Dabholkar was allotted Final Plot No.33 of Town Planning Scheme No.1 measuring 5207.83 sq. yards. In said order the Hon'ble Court has also observed that substantial portion of the Final Plot No.33 is still in possession of illegal encroachers. It was the duty of Thane Municipal Corporation to deliver the vacant possession to Petitioner.

The record nowhere reveals that the directions of the Hon'ble High Court were complied by the Thane Municipal Corporation. Even the existence of the hutments is evident from own version of the land owner. So far as the Civil Suit No.373 of 1999 is concern, the official website of Thane City Civil Court reveals that the said Suit is filed by Sharayu P. Deshpande against Krishnaji S. Dabholkar & Anr. and next date is 05.01.2024. But mere pendency of Civil Suit is no hurdle for declaration of land as Slum Rehabilitation Area. Whoever may be the land owner the provisions of the Maharashtra Slum Areas (I, C & R) Act, 1971 confers preferential rights on owner to redevelop the said land. It is on failure of owner to come forward for redevelopment the appointment of another developer by slum dwellers society is permitted.

The report of Deputy Director Land Records dated 15.05.2023 reveals that the owner of said land is one Mr. Surendra Krishnaji Dabholkar. Due to declaration of said land as Slum Rehabilitation Area the rights of owner shall not be adversely affected in any manner. In present proceedings the issue for determination of this Authority is as to whether conditions for declaration of said land as Slum Rehabilitation Area exist at site or not. The eligible slum dwellers will have to rehabilitated. So far as the said area is concern the same is lacking basic amenities and report of Executive Engineer, Mumbai Metropolitan Region, Thane/SRA and Deputy Director Land Records/SRA reveals that said area needs to be declared as Slum Rehabilitation Area in order improve the standard of living of slum dwellers.

It is pertinent to note that the present application is only for declaration of said land as Slum Rehabilitation Area. Considering these

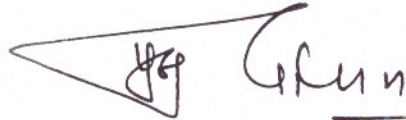
facts and circumstances on record this Authority has reached to conclusion that it will be just and proper to declare the said land as Slum Rehabilitation Area and accordingly this Authority proceed to pass following order;

ORDER

- 1) The application of Applicant i.e. Shivanand CHS (Prop.) dated 08.05.2023 is allowed as under;
- 2) The land bearing Final Plot No.33(Pt.), TPS-1, Mauje Pachpakhadi, Taluka Thane, area admeasuring 2192.90 sq. mtrs. for Shree Shivanand CHS (Prop.) is hereby declared as Slum Rehabilitation Area u/s 3 C (1) of Maharashtra Slum Areas (I, C & R) Act, 1971.
- 3) The proceedings stands disposed of.

Place: - Mumbai.

Date: - 21/12/2023



Chief Executive Officer,
MMR Slum Rehabilitation Authority 21/12

No. MMR SRA/CEO Order/Shivanand CHS (Prop.)/557/2023

Date: 26 DEC 2023

Copy to:

1. Shivanand CHS (Prop.)
Through Chief Promoter Shri. Ravindra Bhaur,
Final Plot No.33(Pt), Sambhaji Nagar,
Opp. Nitin Company, Near Korum Mall,
Service Road, Panchpakhadi,
Thane - 400 604
2. Mr. Surendra Krishnaji Dabholkar
Dabholkar House, Edulji Road, Charai,
Thane - 400 601
3. Mr. Ramesh Jagannath Jadhav,
15 Roopshree, Dr. Moose Road, Talavpali,
Thane - 400 602
4. Mr. Ajay Purushottam Deshpande,
A-4, Raunak Park Society, Flat No.101,
Pokhran Road No.2, Kokani Pada, Thane
5. Deputy Chief Engineer/MMR, SRA
6. Deputy Collector-1/MMR, SRA
7. Asst. Registrar/MMR, SRA
8. Finance Controller/MMR, SRA
9. Legal Department/MMR, SRA
- ✓ 10. IT Officer/MMR, SRA.