

SLUM REHABILITATION AUTHORITY

**BEFORE THE CHIEF EXECUTIVE OFFICER,
SLUM REHABILITATION AUTHORITY,**

Shivkrupa Welfare Society,
Room No.7, Madhav Seth Chawl,
Datta Mandir Road, Malad (East),
Mumbai - 400 097

.. Applicant

V/s

1. Smt. Sheela Bharat Yadav & 4 Ors.
through C.A. Shri Umesh Bharat Yadav,
302, Wing No.2, 3rd Floor,
Nalanda Apartments, Daftary Road,
Kurar Village, Malad (East),
Mumbai - 400 097
2. Shri. Giridharlal Agarwal,
Giridharlal Kamdar Aagrwal Jewelers,
Dhanmandi, Madanganj, District Ajmer,
Rajasthan, Pin Code - 303 801
3. Shri Nathubhai V. Kalsaria
through Adv. Sean Wassoodew,
12-2, Rajabahadur Mansion,
2nd Floor, 14, Ambalal Doshi Marg,
Fort, Mumbai 400 023

.. Respondents
/Objectioners

ORDER

(Passed on)

These proceedings are initiated pursuant to the application of Applicant i.e. Shivkrupa Welfare Society dated 16.12.2016 submitted u/s 3C (1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 in respect of land bearing CTS No.3/A, admeasuring 2006.27 sq. mtrs. of Mauje - Kurar for declaration of said land as "Slum Rehabilitation Area". In brief the facts which lead to the present proceedings are as under;

FACTS IN BRIEF;

The Applicant vide letter dated 16.12.2016 submitted an application along with all the supporting documents u/s 3C (1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 for declaration as "Slum Rehabilitation Area". On 23.01.2017 the Deputy Collector/SRA visited the site and submitted the site visit report of said land. The Deputy Collector has observed that, it will be just and proper to declare the said area as Slum Rehabilitation Area.

Pursuant to the site visit report a Public Notice dated 07.03.2017 was issued by the Dy. Collector (W.S)/SRA. The Panchanama dated 08.03.2017 confirms that the Public Notice is affixed at conspicuous place on the said land. The public notice was given in English and Marathi daily newspaper in "Mid-Day" and "Mumbai Chaufer" on 10.03.2017 inviting objections if any. The Public Notice is also displayed on the official website of Slum Rehabilitation Authority on 09.03.2017. In response to public notice the objections are received from Respondents/Objectioners.

Notices were issued to the Respondents as well as Applicant and matter is heard on various dates. On 02.08.2022, the Applicant remain present alongwith their Advocate. Mr. Umesh Yadav remain present for Respondent No.1 and matter was closed for order.

During the hearing held on 05.02.2021, this Authority has directed the Deputy Collector/SRA to visit the site. On 04.03.2021 the Deputy Collector/SRA visited the site and submitted site visit report of said land. The Deputy Collector observed that, there were slum structures and slum structures were kaccha & pakka. Some structures are of Ground floor + 1 floor. Most of the slum structures are in use for residential & some structures are in use of residential purpose. The slum 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 are two public toilets which are being used by all the slum dwellers. There are some dilapidated structures on site. The Deputy Collector has observed that, it will be just and proper to declare the said area as Slum Rehabilitation Area.

The District Superintendent of Land Records/SRA submitted his report along with GIS plan on 22.02.2023. As per his report land bearing CTS

No.3/A(pt), 3/A/1 to 3/A/25 of Mauje - Kurar, Taluka Borivali, area admeasuring 2006.27 sq. mtrs. is liable for declaration as Slum Rehabilitation Area. Hereinafter the above said land is referred to and called as "said land".

ARGUMENT OF APPLICANT

According to Applicant the occupants on land bearing CTS No.3/A, admeasuring 2006.27 sq. mtrs. of Mauje - Kurar, Taluka Borivali have formed proposed society and submitted an application to this Authority for declaration of said land as Slum Rehabilitation Area. The occupants are residing in slum structures on said land without requisite amenities. There is slum like situation and the society has resolved to redevelop the said land by implementing Slum Rehabilitation Scheme. It is further version of Applicant that there is no proposal is submitted to MCGM for redevelopment of said land. On these grounds the Applicant has prayed for declaration of said land as Slum Rehabilitation Area.

ARGUMENT OF RESPONDENT NO.1

According to Respondent No.1, their grandfather late Mr. Madhav Dukhi Yadav @ Ahir was the owner of the said land and after his demise the names of legal heirs were recorded in revenue record. According to Respondent No.1 the said land is private land and also having all amenities required for habitation and due to eviction proceedings initiated by them against tenants before the Small Causes Court at Bandra the slum dwellers have given their consent to declare the said land as Slum Rehabilitation Area u/s 3C of the Maharashtra Slum Areas (I, C & R) Act, 1971. It is the case of the Respondent No.1 that in respect of said land the MCGM has issued IOD and CC during the year 2002 to 2004. It is further version of Respondent No.1 that many tenants existed on the part of said land has requested monetary compensation in lieu of rehabilitation and accordingly handed over the possession of their respective tenements to them. As per the approval the construction work is completed comprising of Stilt + first floor and slab of second floor were in progress.

According to Respondent No.1 the tenants of Applicant society are part of the redevelopment Scheme and they will be rehabilitated and given alternate accommodation in situ. The MCGM has issued stop work notice

dated 16.09.2004 u/s 354 of Mumbai Municipal Corporation Act, directing not to continue with the redevelopment of the said land. The Writ Petition No.789 of 2007 is filed by Sheela B. Yadav & Ors. V/s MCGM & Ors. challenging the said stop work notice and through order dated 26.03.2007, the Petition is withdrawn with liberty to file Civil Suit. It is further version of Respondent No.1 that thereafter a Suit No.166 of 2008 is filed by Sheela B. Yadav & Ors. V/s. MCGM & Ors. along with Notice of Motion No.2948 of 2009 in Hon'ble High Court and through order dated 02.07.2007, the Hon'ble Court has directed to maintain status quo in respect of said land till hearing of Notice of Motion.

According to Respondent No.1 in the year 2016, the Applicant has submitted the present application for declaration of said land as Slum Rehabilitation Area. It is further version of Respondent No.1 that the Applicant has earlier also filed an Application dated 29.06.2017 to the Competent Authority for declaration of said land as Slum Area u/s 4 of the Maharashtra Slum Areas (I, C & R) Act, 1971. The objection to said declaration was also raised by them through Advocate before the Competent Authority on the grounds of status quo order as well as building proposal sanctioned by MCGM. Through Gazette Notification dated 11-17 July, 2019, the said land is declared as Slum Area.

According to Respondent No.1 they have filed Appeal No.10 of 2019 in Maharashtra Slum Tribunal challenging the said notification dated 11-17 July 2019. The Respondent No.1 has also filed an application to the Assistant Charity Commissioner to deregister the Applicant Trust and through order dated 07.08.2019, the Assistant Charity Commissioner restrained the Applicant to represent before any Authority. Further the Maharashtra Slum Tribunal also through order dated 24.01.2020 stayed the said notification dated 11-17 July 2019.

According to Respondent No.1 that there is all the basic amenities for human habitation such as individual electricity meter, 7 different meter water connections, adequate toilet, etc. It is further version of Respondent No.1 that the Applicant has also withdrawn the present proceedings in the year 2019.

On these ground the Respondent No.1 has prayed to reject the Application of Applicant.

ARGUMENT OF RESPONDENT NO.2

According to Respondent No.2, his father late Dindayal Agarwal is the owner of the said land and he is one of the legal heirs of deceased. According to Respondent No.2 there is a Suit No.368 of 1954 filed in City Civil Court, Bombay (Bagalibai Dindayal & Ors. V/s Mahadev Dukhi Ahir), wherein decree was passed by the Hon'ble Court directing the Defendants to handover the vacant and peaceful possession of the suit premises. On these ground the Respondent No.2 has prayed to reject the Application of Applicant.

ARGUMENT OF RESPONDENT NO.3

Advocate Sean Wassoodew has submitted an objection on behalf of their client Shri Nathubhai V. Kalsaria for declaration of said land as Slum Rehabilitation Area. According to Respondent No.3, Shri Nathubhai V. Kalsaria has executed Development Agreement dated 14.04.2004 with the original owners for redevelopment of said land. It is the case of the Respondent No.3 that in respect of said land the MCGM has issued IOD and CC to construct building of Stilt + Six Floors and accordingly building is constructed of Ground + 1st floor. On these ground the Respondent No.3 has prayed to reject the Application of Applicant.

ISSUES

From rival contentions the issue that arise for determination of this Authority is as to whether requisite conditions for declaration of said land as Slum Rehabilitation Area u/s 3C(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 exist at site and Whether the said land is liable to be declared as Slum Rehabilitation Area u/s 3C of the Maharashtra Slum Areas (I, C, & R), Act, 1971?

DISCUSSION

Through present application the Applicant is seeking to declare the land bearing CTS No.3/A, admeasuring 2006.27 sq. mtrs. of Mauje - Kurar as Slum Rehabilitation Area. The Deputy Collector has visited site on 23.01.2017 & 05.02.2021 and submitted site visit report of said land. From said report it appears that the slum 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. Due to said conditions the Deputy Collector has concluded that there are no hygienic conditions and the said slum may become source of danger to human life.

The record reveals that District Superintendent of Land Records has submitted report along with GIS plan on 22.02.2023, wherein it is mentioned that land bearing CTS No.3/A(pt), 3/A/1 to 3/A/25 of Mauje - Kurar, Taluka Borivali, area admeasuring 2006.27 sq. mtrs. needs to be declared as "Slum Rehabilitation Area"

The Respondent No.1 contended that pursuant to her application the Applicant is restrained by Assistant Charity Commissioner from writing any letters on letter head of Trust. There is copy of order of Assistant Charity Commissioner dated 07.08.2019 on record. From perusal of said order it appears that the Assistant Charity Commissioner has clearly observed that his office has nothing to do with rights of slum dwellers/tenants as well as with property of landlord.

It is contended by Respondent No.1 that the proposal is already submitted to MCGM for redevelopment and IOD & CC is issued in the year 2002 to 2004. Even if the contention of Respondent No.1 is accepted then question arises as to why further steps has not been taken. The Respondent No.1 has also contended that a Suit No.166 of 2008 is filed by Sheela Bharat Yadav & Ors. V/s MCGM & Ors. alongwith Notice of Motion and in said Suit the Hon'ble Court has directed to maintain status quo. From perusal of orders in said Suit it appears that there is some dispute pertaining to compensation as per section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Ultimately whoever will be the owner they will be entitled for land premium recovered from developer. Moreover after declaration of land as Slum Rehabilitation Area the owner shall also get preferential right to redevelop land. The owner rights will not be adversely affected due to such declaration.

It is further version of Respondent No.1 that they are the legal heirs of original owner of said land. They further stated that the proposal of said land is already submitted to the MCGM and the MCGM has issued IOA and CC for

the redevelopment of said land. The Respondent No.3 also claiming that he is having development rights in respect of said land. The present proceeding is for declaration of said land as Slum Rehabilitation Area and such declaration will not adversely affect the ownership right of Respondents. There is copy of Panchanama dated 12.06.2023 on record. As per said report it appears that there is no any construction of buildings on said land.

The Respondents have raised issue of title. The Advocate for Applicant rightly argued that at this stage this Authority is not concerned with the issue of title. He further argued that this Authority has to decide as to whether there is slum like situation or not. There appears to be much substance in submission of Advocate for Applicant. The issue of title is not relevant in proceedings u/s 3C of the Maharashtra Slum Areas (I, C & R) Act, 1971.

It is also admitted fact that through Gazette Notification dated 11-17 July, 2019, the said land is declared as Slum Area. It appears that the said slum declaration is challenged by Sheela Bharat Yadav before the Maharashtra Slum Tribunal in Appeal No.10 of 2019 and the Tribunal through order dated 24.01.2020 granted status quo to said notification. Merely granting status quo to the said Gazette Notification dated 11-17 July, 2019, does not restrict this Authority to declare the said land as Slum Rehabilitation Area u/s 3C of the Maharashtra Slum Areas (I, C & R) Act 1971.

The Deputy Collector/SRA has noticed that there is slum like situation and lack basic amenities. The Applicant has also submitted photographs of structures on said land alongwith application dated 16.12.2016. From these photographs it clearly appears that the pathway is narrow and there is lack of proper sunlight & ventilation. This Authority do not find any reason to discard his opinion. Moreover after declaration of land as Slum Rehabilitation Area the Respondents being land owner will get preferential rights to redevelop the said land.

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 is allowed.
2. The land bearing CTS No.3/A(pt), 3/A/1 to 3/A/25 of Mauje - Kurar, Taluka Borivali, area admeasuring 2006.27 sq. mtrs. in occupation of Shivkrupa Welfare Society is hereby declared as Slum Rehabilitation Area u/s 3C(1) of the Maharashtra Slum Rehabilitation Areas (I, C & R) Act, 1971.


Chief Executive Officer
Slum Rehabilitation Authority

Place: - Mumbai

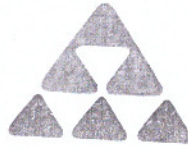
Date: **12 8 JUL 2023**

No. SRA/CEO Order/Shivkrupa Welfare Society/ **33715**/2023.

Date: **12 8 JUL 2023**

Copy to:

1. Shivkrupa Welfare Society,
Room No.7, Madhav Seth Chawl,
Datta Mandir road, Malad (East),
Mumbai 400 097.
2. Smt. Sheela Bharat Yadav & 4 Ors.
Through C.A. Shri Umesh Bharat Yadav,
302, Wing No.2, 3rd Floor,
Nalanda Apartments, Daftary Road,
Kurar Village, Malad (East),
Mumbai - 400 097.
3. Shri Giridharlal Agarwal,
Giridharlal Kamdar Aagrwal Jewelers,
Dhanmandi, Madanganj, District Ajmer,
Rajasthan, Pin Code - 303 801.
4. Shri Nathubhai V. Kalsaria
through Adv. Sean Wassoodew,
12-2, Rajabahadur Mansion,
2nd Floor, 14, Ambalal Doshi Marg,
Fort, Mumbai 400 0239.
5. Executive Engineer (P/N Ward)/SRA
6. Tahsildar-2 (SRA)
7. Joint Registrar (W.S.)/SRA
7. Finance Controller/SRA
8. Chief Legal Consultant/SRA
- 19.** IT Officer/SRA



SLUM REHABILITATION AUTHORITY

SRA/ED/OW/2023/ 33715/PN

No. SRA/Eng.Dept. /3C (1)/Shivkripa Welfare /2023

Date: 28 Jun 2023 /2023

NOTIFICATION

Whereas, the Slum Rehabilitation Authority has formed Slum Rehabilitation Scheme under the provision of section 3B (3) of Maharashtra Slum Area (Improvement, Clearance and Redevelopment) Act, 1971 and published in gazette on 9th April 1998;

Whereas, in view of the provision of Section 3C (1) of the Maharashtra Slum Area (Improvement, Clearance and Redevelopment) Act, 1971 the Chief Executive Officer, Slum Rehabilitation Authority is empowered to declare any area as "Slum Rehabilitation Area".

Therefore in view of the said provision of section 3C (1) of the Maharashtra Slum Area (Improvement, Clearance and Redevelopment) Act, 1971. I, undersigned is hereby declare the area shown in schedule as "Slum Rehabilitation Area". Now the said area is open to submit scheme of slum rehabilitation as per regulation 33(10) of DCPR - 2034 for Greater Mumbai.

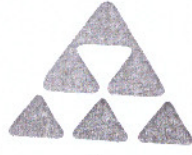
Schedule

Village - Kurar, Taluka - Borivali

Sr. No.	Village & C.T.S. No.	Area as per property card (Sq.mtr.)	Area declared as "Slum Rehabilitation Area" (sq.mtr.)	Boundaries of S.R.			
				East	West	North	South
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Village - Kurar Taluka - Borivali C.T.S. 3/A	4611.20	1652.17	C.T.S. 3 A (pt.) 3/B	C.T.S. 831, 4,6	C.T.S. 831, 3 A (pt.)	C.T.S. 37
2	3/A/1 to 3/A/25	354.10	354.10				
Total		4965.30	2006.27				

Slum Rehabilitation Authority
Administrative Building,
Prof.Anant Kanekar Marg,
Bandra (E), Mumbai - 400051.

(SATISH LOKHANDE)
Chief Executive Officer,
Slum Rehabilitation Authority.



झोपडपट्टी पुनर्वसन प्राधिकरण

SRA/ED/OW/2023/ 33715/PN

क्र. झोपुप्रा/अभि.विभाग/३क(१)/ शिवकृपा वेल्फेअर २०२३

दिनांक 28 JUL 2023

अधिसूचना

ज्याअर्थी, महाराष्ट्र झोपडपट्टी (सुधारणा, निर्मुलन आणि पुनर्विकास) अधिनियम १९७१ चे कलम ३ब च्या पोट कलम (३) अनुसार झोपडपट्टी पुनर्वसन प्राधिकरणाने झोपडपट्टी पुनर्वसन योजना तयार करुन दिनांक ९ एप्रिल १९९८ रोजी राजपत्रात प्रसिध्द केली आहे.

ज्याअर्थी, महाराष्ट्र झोपडपट्टी (सुधारणा, निर्मुलन आणि पुनर्विकास) अधिनियम १९७१ चे कलम ३ (क) उप-कलम (१) अनुसार "झोपडपट्टी पुनर्वसन क्षेत्र" घोषित करण्याचे अधिकार मुख्य कार्यकारी अधिकारी, झोपडपट्टी पुनर्वसन प्राधिकरण यांना आहेत.

त्याअर्थी उक्त कलम ३ (क) चे उपकलम (१) मधील अधिकाराचा वापर करुन मी, खालीलप्रमाणे अनुसूचीमध्ये दर्शविलेले क्षेत्र "झोपडपट्टी पुनर्वसन क्षेत्र" म्हणून याद्वारे घोषित करीत आहे. सदरचे क्षेत्र बृहन्मुंबई विकास नियंत्रण व प्रोत्साहन नियमावली २०३४ चे नियम ३३ (१०) अन्वये झोपडपट्टी पुनर्वसन योजना दाखल करण्यास पात्र आहे.

अनुसूची

मौजे- कुरार. ता- बोरिवली

अ. क्र.	गावाचे नांव व न.भू.क्र.	मिळकत पत्रिकेनुसार क्षेत्र (चौ.मी.)	झोपडपट्टी पुनर्वसन म्हणून घोषित केलेले क्षेत्र (चौ.मी.)	चतुःसीमा			
				पूर्व	पश्चिम	उत्तर	दक्षिण
(१)	(२)	(३)	(४)	(५)	(६)	(७)	(८)
१	मौजे- कुरार ता- बोरिवली न.भू.क्र. ३/अ	४६११.२०	१६५२.१७	न.भू.क्र. ३ अ (पै.) ३/ब	न.भू.क्र. ८३१, ४,६	न.भू.क्र. ८३१, ३ अ (पै.)	न.भू.क्र. ३७
२	३/अ / १ ते ३/अ / २५	३५४.१०	३५४.१०				
	एकूण	४९६५.३०	२००६.२७				

झोपडपट्टी पुनर्वसन प्राधिकरण

प्रशासकीय इमारत, प्रा. अनंत काणेकर मार्ग,

बांद्रा (पुर्व) मुंबई ४०००५१

(सतिश लोखंडे)

मुख्य कार्यकारी अधिकारी
झोपडपट्टी पुनर्वसन प्राधिकरण