

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

Pimpleshwar Mahadev Ovaripada
(Karnvashi) Seva Sangh (Regd.),
Hari Ashish Chawl, Harichandra Mahajan Marg,
Ovaripada, Dahisar (East),
Mumbai - 400 068.


... Applicant

V/s

1. Nilesh Jairam Dhapsi & Ors.
Room No.1, Raghunath Mahadev Dhapasi Chawl,
Shramdan Marg, Old Police Chauki,
Ovaripada, Dahisar (East),
Mumbai - 400 068
2. Smt. Laxmi Jairam Dhapsi,
(Through Advocate Pradeep Kumar G. Dubey),
Raghunath Mahadev Dhapsi Chawl,
Ovaripada, S.V. Road, Dahisar (East),
Mumbai - 400 068
3. Mr. Devendra Gajanan Bhowar,
Flat No.301, Saraswati Apartments,
Chunabhatti, Sion Mumbai - 400 022
4. Nandanvan Murlidhar CHS Ltd. and
Nandanvan Madhusudan CHS Ltd.
(Through Advocate Piyush Shah & Associates),
Nandanvan Complex, Vrindavan Marg,
Dahisar (East), Mumbai - 400 068
5. Ekagrata Overipada Welfare Society,
G-1, Raghunath Mahadev Chawl,
S.V. Road, Overipada,
Gujarat Seva Hospital,
Dahisar, Mumbai - 400 068.

... Objections/
Respondent

**Sub.: Proceedings u/s 3C (1) of Maharashtra Slum Areas (I, C & R) Act,
1971.**


CEO / SRA

ORDER

(Passed on -18/03/24)

These proceedings are initiated pursuant to application of Applicant i.e. Pimpleshwar Mahadev Ovaripada (Rahivasi) Seva Sangh (Regd.) dated 27.08.2014 for declaration of land bearing CTS No.1664B/5(pt), 1671(pt), 1672, 1672/1 & 2, 1673, 1673/1 & 2, 1674, 1674/1 to 4, 1675, 1675/1, 1676, 1676/1 to 4, 1677, 1677/1 to 7, 1678, 1679, 1679/1 to 3, 1680, 1680/1, 1680/2, 1681, 1682, 1682/1 to 3, 1683, 1683/1 to 4, 1684, 1684/1 to 7, 1685, 1685/1 to 4, 1686, 1686/1 to 4, 1687, 1687/1 to 8, 1688, 1689, 1689/1 to 4, 1690, 1690/1 to 4, 1691, 1692, 1692/1 to 7, 1693, 1693/1 to 8, 1694, 1694/1 to 5, 1721, 1721/1 to 6, 1722, 1723, 1723/1 to 4, 1724, 1724/1 to 3, 1725, 1725/1 to 6, 1726, 1726/1 to 6, 1727E(pt), Village - Dahisar, Taluka - Borivali, admeasuring 4801.36 sq. mtrs. as "Slum Rehabilitation Area" u/s 3C(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971. In brief the facts which lead to the present proceedings are as under;

FACTS IN BRIEF

The Applicant submitted the present application u/s 3 C of the Maharashtra Slum Areas (I, C & R) Act, 1971 in respect of land bearing CTS No.1664B/5(pt), 1671(pt), 1672, 1672/1 & 2, 1673, 1673/1 & 2, 1674, 1674/1 to 4, 1675, 1675/1, 1676, 1676/1 to 4, 1677, 1677/1 to 7, 1678, 1679, 1679/1 to 3, 1680, 1680/1, 1680/2, 1681, 1682, 1682/1 to 3, 1683, 1683/1 to 4, 1684, 1684/1 to 7, 1685, 1685/1 to 4, 1686, 1686/1 to 4, 1687, 1687/1 to 8, 1688, 1689, 1689/1 to 4, 1690, 1690/1 to 4, 1691, 1692, 1692/1 to 7, 1693, 1693/1 to 8, 1694, 1694/1 to 5, 1721, 1721/1 to 6, 1722, 1723, 1723/1 to 4, 1724, 1724/1 to 3, 1725, 1725/1 to 6, 1726, 1726/1 to 6, 1727E(pt), Village - Dahisar, Taluka - Borivali, admeasuring 4801.36 sq. mtrs. Hereinafter the above said land is referred to and called as "said land". Alongwith application the Applicant submitted copies of PR Card, slum plan, etc. Pursuant to said application the District Superintendent of Land Records/SRA has submitted report alongwith GIS plan on 30.07.2021. As per his report said land is liable for declaration as "Slum Rehabilitation Area".

The District Superintendent of Land Records/SRA and Executive Engineer/SRA have jointly visited site on 06.01.2023. At the time of visit, they noticed that there were slum structures and same were kaccha & pakka. Majority of the huts are of Ground + 1st floor. These huts are in use for residential & commercial purpose. There is no proper drainage facility. The slum structures are situated closely and in congested manner. The internal roads are narrow. There is lack of proper sunlight and ventilation. There are no Public Toilets at site.

Pursuant to the site visit of District Superintendent of Land Records and Executive Engineer, a Public Notice dated 13.03.2023 was issued. The Public Notice was given in English and Marathi daily newspapers in "Mid-Day" and "Punya Nagari" on 21.03.2023 inviting the objections, if any. The objections are received from objectioners.

Pursuant to objections the parties were heard on 03.07.2023. On said day office bearers of Applicant society remain present alongwith their Advocate Amol Arote. Mr. Nilesh J. Dhapsi & 4 Ors. remain present for Respondent No.1. Smt. Laxmi Dhapsi also remain present for Respondent No.2. Advocate H. Sagar appeared on behalf of Respondent No.4 societies. Parties were heard at length and matter was closed for order. Directions were given to submit written say within 15 days.

ARGUMENT OF APPLICANT

According to Applicant the slum dwellers are residing in slum structures on said land without requisite amenities and there is slum like situation. It is the case of Applicant that the name of Veekaylal Investment Co. Pvt. Ltd. is recorded in PR Card in respect of said land (except land CTS No.1664B/5 & 1727E). According to Applicant some of the names of objectioners are recorded in property card and some of the objectioners names are neither in PR Card nor do they have any documents to show them as owner.

It is the case of Applicant that CTS Nos.1672 to 1683 are already declared as Slum Area u/s 4(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 through Government Gazette dated 15.10.1977. It is further version of Applicant that the land owner M/s. Veekaylal Investment Co.



Pvt. Ltd. has not raised any objection to proposed declaration as Slum Rehabilitation Area. On these grounds the Applicant has prayed for declaration of said land as Slum Rehabilitation Area.

ARGUMENT OF RESPONDENT NO.1 i.e. MR. NILESH JAIRAM DHAPSI & ORS.

Though Mr. Nilesh Jairam Dhapsi & Ors. submitted their individual objections on record, their objections are almost identical. According to Respondent No.1 the present proceedings are initiated by Applicant without their consent and on the basis of forged resolution of General Body Meeting. It is further version of Respondent No.1 that, occupants on said land are belonging to Adivasi community and they are also imla malik. On these grounds the Respondent No.1 prayed to reject the application of Applicant.

ARGUMENT OF RESPONDENT NO.2 i.e. SMT. LAXMI JAIRAM DHAPSI

The Respondent No.2 submitted objection through her Advocate Pradeep Kumar G. Dubey. According to Respondent No.2, she belongs to Adivasi community and she is concern with CTS No.1684, 1684/1 to 7 as her father in law, Mr. Raghunath Mahadev Dhapsi was the imla malik and landlord of chawl known as Raghunath Mahadev Dhapsi Chawl. It is further contended by Respondent No.2 that her father in law, Shri Raghunath Dhapsi expired on 20.06.1978 leaving behind her husband Mr. Jairam Raghunath Dhapsi as his legal heirs. She further stated that her husband also expired and now she become the landlord of said Chawl. According to Respondent No.2, said chawl is having all the basic amenities and there is no slum like situation. On these grounds the Respondent No.2 prayed to reject the application of Applicant.

ARGUMENT OF RESPONDENT NO.3.

According to Respondent No.3, the 7/12 extract of Survey No.345C and Survey No.193, Hissa No.5 stands in his name alongwith his siblings. The possession of said land was granted in favour of their father and mother u/s 32M of the Tenancy Act and thereafter various proceedings were initiated in Tribunal and Hon'ble High Court. Through order dated 08.10.2015, the Maharashtra Revenue Tribunal has confirmed the order of Respondent No.3 u/s 32M of Tenancy Act. The said order



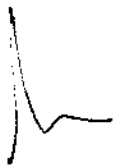
dated 08.10.2015 is challenged by M/s. Veckaylal Investment Co. Pvt. Ltd. & Anr. in Writ Petition No.10862 of 2015 & 10862 of 2015 and the Hon'ble High Court through order dated 18.11.2015 has restrained Respondent Nos.1(A) to 1(F) therein i.e. legal heirs of Gajanan Shankar Bhowar from transferring, alienating or creating third party rights in respect of Suit property without the express leave of the Hon'ble Court. According to Respondent No.3 the slum dwellers have illegally encroached on land belonging to them. On these grounds the Respondent No.3 prayed to reject the Application of Applicant.

ARGUMENT OF RESPONDENT NO.4.

The Respondent No.4 submitted their objection through their Advocate Piyush Shah & Associates in respect of land CTS No.1664B/5, admeasuring 2267.0 sq. mtrs., According to Respondent No.4, they are the owner of land CTS No.1664B/5 as per PR Card. It is further version of Respondent No.4 that as per MCGM plan, Nandanvan Murlidhar CHS Ltd. is having area of 1133.23 sq. mtrs. and Nandanvan Madhusudan CHS Ltd. is having area of 1239.0 sq. mtrs. It is further version of Respondent No.4 that as per PR Card, Nandanvan Murlidhar CHS is having area of 1028.0 sq. mtrs. So out of area admeasuring 1133.23 sq. mtrs., if area 107.64 sq. mtrs. is declared as slum then they do not have any objection for said declaration but there must be fair compensation. According to Respondent No.4 their society intends to redevelop the land in their occupation and Development Agreement is finalized and same is under process of registration with Sub-Registrar.

ARGUMENT OF RESPONDENT NO.5.

According to Respondent No.5, the present proceedings are initiated by Applicant without the consent and knowledge of Adivasi Chawl owner and resident of land CTS No.1672 to 1680, 1682, 1684, 1686 & 1722. The Applicant do not have any consent of slum dwellers for proposed declaration of said land as Slum Rehabilitation Area. On these grounds the Respondent No.5 prayed to reject the Application of Applicant.



GEO : SRA



ISSUE

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 CTS No.1664B/5(pt), 1671(pt), 1672, 1672/1 & 2, 1673, 1673/1 & 2, 1674, 1674/1 to 4, 1675, 1675/1, 1676, 1676/1 to 4, 1677, 1677/1 to 7, 1678, 1679, 1679/1 to 3, 1680, 1680/1, 1680/2, 1681, 1682, 1682/1 to 3, 1683, 1683/1 to 4, 1684, 1684/1 to 7, 1685, 1685/1 to 4, 1686, 1686/1 to 4, 1687, 1687/1 to 8, 1688, 1689, 1689/1 to 4, 1690, 1690/1 to 4, 1691, 1692, 1692/1 to 7, 1693, 1693/1 to 8, 1694, 1694/1 to 5, 1721, 1721/1 to 6, 1722, 1723, 1723/1 to 4, 1724, 1724/1 to 3, 1725, 1725/1 to 6, 1726, 1726/1 to 6, 1727E(pt), Village - Dahisar, Taluka - Borivali, admeasuring 4801.36 sq. mtrs. as Slum Rehabilitation Area. The record reveals that District Superintendent of Land Records has submitted report alongwith GIS plan on 30.07.2021, wherein it is mentioned that said land needs to be declared as "Slum Rehabilitation Area". Thereafter the District Superintendent of Land Records and Executive Engineer have jointly visited site. The report of site visit of District Superintendent of Land Records and Executive Engineer is on record. From said report it appears that there are slum structures and same are kaccha & pakka. Majority huts are of Ground + 1st floor. These huts are in use for residential & commercial purpose. The slum structures are situated closely and in congested manner. The internal roads are narrow. There is no proper drainage facility. There is lack of proper sunlight and ventilation. There is no Public Toilets at site. Due to said conditions the District Superintendent of Land Records and Executive Engineer has concluded that there are no hygienic conditions and the said slum may become source of danger to human life.



The Applicant has also submitted photographs of structures on said land alongwith application dated 27.08.2014. From these photographs it clearly appears that the pathways are narrow. There is categorical observation of District Superintendent of Land Records and Executive Engineer to that effect. This Authority do not find any reason to discard their report. It is the case of Applicant that CTS Nos.1672 to 1683 are already declared as Slum Area u/s 4(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 through Government Gazette dated 15.10.1977.

The Respondent No.1, 2 & 5 in their objection alleged that they are the occupants/imla malik in respect of said land. They further contended that there is no slum like situation on said land. But the report of site visit reveals that there is slum like situation. In present proceedings only the decision is to be taken regarding declaration of said land as Slum Rehabilitation Area and due to present proceedings the alleged claim of Respondent No.1, 2 & 5 shall not be adversely affected in any way. So far as the rights of the occupants are concerned, their right are limited to the extent of their rehabilitation subject to their eligibility. The Respondent No.1 alleged that resolution was obtained by practicing fraud. If they have any grievance in that regard then they may approach proper forum. So far as present proceedings are concerned the said issue is irrelevant.

According to Respondent No.3, the 7/12 extract of Survey No.345C and Survey No.193, Hissa No.5 are stands in his name alongwith his siblings. The possession of said land was granted in favour of his father and mother u/s 32M of the Tenancy Act. Through order dated 08.10.2015, the Maharashtra Revenue Tribunal has confirmed the possession of Respondent No.3 u/s 32M of Tenancy Act. The said order dated 08.10.2015 is challenged by M/s. Veckaylal Investment Co. Pvt. Ltd. & Anr. in Writ Petition No.10862 of 2015 & 10862 of 2015 and the Hon'ble High Court through order dated 18.11.2015 has restrained legal heirs of Gajanan Shankar Bhowar from transferring, alienating or creating third party rights in respect of Suit property without the express leave of the Hon'ble Court. The Slum Rehabilitation Authority is not party to said Petition. Even assuming that the Respondent No.3 is owner of said



land, then also there is no hurdle for declaration of land as Slum Rehabilitation Area. Since there is slum like situation, the Respondent No.3 will get preferential right to redevelop the same. 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. Whoever may be entitled to said land, 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.

According to Respondent No.4, they are the owner of land CTS No.1664B/5 as per PR Card. As per MCGM plan, Nandanvan Murlidhar CHS Ltd. is having area of 1133.23 sq. mtrs. and Nandanvan Madhusudan CHS Ltd. is having area of 1239.0 sq. mtrs. It is further version of Respondent No.4 that as per PR Card, Nandanvan Murlidhar CHS is having area of 1028.0 sq. mtrs. So out of area of 1133.23 sq. mtrs., if the area of 107.64 sq. mtrs. is declared as Slum Rehabilitation Area then they do not have any objection for said declaration but there must be fair compensation. It appears that as per PR Card as well as report of District Superintendent of Land Records/SRA the total area of CTS No.1664B/5 is 2267 sq. mtrs.

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 rehabilitate. So far as the said area is concern the same is lacking basic amenities and report of Executive Engineer and District Superintendent of Land Records 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. Pimpleshwar Mahadev Ovaripada (Rahivasi) Seva Sangh (Regd.) dated 27.08.2014 is hereby allowed.
2. The land bearing CTS No.1664B/5(pt), 1671(pt), 1672, 1672/1 & 2, 1673, 1673/1 & 2, 1674, 1674/1 to 4, 1675, 1675/1, 1676, 1676/1 to 4, 1677, 1677/1 to 7, 1678, 1679, 1679/1 to 3, 1680, 1680/1, 1680/2, 1681, 1682, 1682/1 to 3, 1683, 1683/1 to 4, 1684, 1684/1 to 7, 1685, 1685/1 to 4, 1686, 1686/1 to 4, 1687, 1687/1 to 8, 1688, 1689, 1689/1 to 4, 1690, 1690/1 to 4, 1691, 1692, 1692/1 to 7, 1693, 1693/1 to 8, 1694, 1694/1 to 5, 1721, 1721/1 to 6, 1722, 1723, 1723/1 to 4, 1724, 1724/1 to 3, 1725, 1725/1 to 6, 1726, 1726/1 to 6, 1727E(pt), Village - Dahisar, Taluka - Borivali, admeasuring 4801.36 sq. mtrs. is hereby declared as Slum Rehabilitation Area u/s 3C(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971.

SRA/ED/ow/2024/14928

Date: 18 MAR 2024

Place: Mumbai.


Chief Executive Officer
Slum Rehabilitation Authority

Copy to:

1. Pimpleshwar Mahadev Ovaripada (Rahivasi) Seva Sangh (Regd.), Hari Ashish Chawl, Harichandra Mahajan Marg, Ovaripada, Dahisar (East), Mumbai - 400 068.
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G-1, Raghunath Mahadev Chawl,
S.V. Road, Overipada,
Gujarat Seva Hospital,
Dahisar, Mumbai - 400 068.
7. Deputy Collector (Special Cell)/SRA
8. Dy. Chief Engineer/SRA
9. Executive Engineer (R/N Ward)/SRA
10. Financial Controller/SRA
11. Asst. Registrar (W.S.)/SRA
- ✓ 12. Information Technology Officer/SRA
13. Chief Legal Consultant/SRA