



Present IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4764 OF 2024

Nanhalal Dattaram Gupta (Since Deceased) & Ors. .. Petitioners

V/s.

State Of Maharashtra

Through Government Pleader & Ors. .. Respondents

Mr. Vishal Kanade with Ms. Tanaya Patankar, Mr. Sagar Batavia i/b Mr. Angad N. Giri for the Petitioners.

Ms. Vaishali Chaudhari, Addl G.P for Respondent no. 1.

Mr. Yogesh Vijay Patil for Respondent no. 2 – AGRC.

Mr. Karl Tamboly a/w Mr. Akshay Naidu and Nidhi Chauhan i/b Vishwanath Patil for Respondent no. 3 – SRA.

Mr. Sanjeevan Bhosle – Assistant Engineer SRA is present.

Mr. Dayanand Trimukhe – Sub Engineer SRA is present.

Mr. Virag Tulzapurkar, Senior Advocate a/w Mani Thevar i/b Ganesh & Co. for Respondent no. 4

CORAM : FARHAN P. DUBASH, J.

RESERVED ON : 18th MARCH 2026

PRONOUNCED ON : 30th MARCH 2026

ORDER:

1. The present Writ Petition was instituted on 16th October 2024. However, for reasons not germane at this stage, the Petition has not been taken up for consideration of interim or ad-interim reliefs since its filing. By an order dated 28th January 2026, this Court, after hearing the parties at some length, considered it appropriate to direct Respondent No. 3, the Chief Executive Officer of the Slum Rehabilitation Authority (**CEO/SRA**) to file an affidavit in reply dealing with the assertions raised in the Petition on or before 12th February 2026. The matter was accordingly adjourned to 20th February 2026. On that date, however, the matter did not reach hearing. Thereafter, upon the Petitioners mentioning the matter seeking urgent ad-interim reliefs, the Petition has been placed on today's supplementary board.

2. Notwithstanding the aforesaid specific direction, the CEO/SRA has, till date, failed to file an affidavit in reply to the present Writ Petition. Indeed, none of the Respondents have filed their replies. When the matter was called out today, the CEO/SRA once again sought further time to place its affidavit on record. Respondent No. 4—Society, however, states that its affidavit in reply has already been affirmed and seeks leave of this Court to file the same.

3. The Petitioners strongly oppose any adjournment of the hearing on this ground. It is submitted on their behalf that considerable time has elapsed since the institution of the present Writ Petition and the Respondents ought to have complied with the earlier directions of this Court by filing their replies well before today. The Petitioners contend that the continued operation of the impugned orders is causing serious prejudice to them and, on that basis, press for urgent consideration of ad-interim reliefs in the present Writ Petition.

4. Having considered the aforesaid circumstances, and bearing in mind that despite a specific direction of this Court requiring affidavits in reply to be filed on or before 12th February 2026, no such replies have been placed on record by any of the Respondents to date, I find merit in the objection raised by the Petitioners. In these circumstances, I consider it appropriate to proceed with the hearing of the Petition for ad-interim reliefs and decline to grant any further time to the Respondents to file their affidavits in reply.

5. Briefly stated, the present Writ Petition, instituted under Article 226 of the Constitution of India, impugns two orders. The first is an order dated 26th November 2018 passed by Respondent No. 3, CEO/SRA, and the second is an order dated 1st October 2024 passed by Respondent No. 2, Apex

Grievance Redressal Committee, Slum Rehabilitation Authority (AGRC) (hereinafter collectively referred to as “*the impugned orders*”).

6. By the impugned order dated 26th November 2018, issued under Section 3C(1) of the Maharashtra Slum (Improvement, Clearance and Redevelopment) Act, 1971 (“*the Slums Act*”), the CEO/SRA declared an area admeasuring 1055.50 square metres forming part of property bearing CTS No. 610A/1A/IA (part), situated at Malad (East), Taluka Borivali, as a ‘*slum rehabilitation area*’. The said order came to be challenged by the Petitioners before the AGRC; however, by the impugned order dated 1st October 2024, the AGRC dismissed the Petitioners’ application and confirmed the declaration, thereby giving rise to the present Writ Petition.

7. For the purposes of the present ad-interim order, it is not necessary to advert to the facts in elaborate detail. Instead, it would suffice to set out a brief chronology of the relevant dates and events, which is captured in the submissions of the parties recorded hereunder.

SUBMISSIONS OF THE PETITIONERS

8. Petitioner No. 1 claims ownership of land admeasuring approximately 650 square metres, whereas Petitioner Nos. 2 to 6 claim ownership of land admeasuring approximately 600 square metres. Both parcels are stated

to form part of property bearing CTS No. 610A/1A/IA (part), situated at Malad (East), Taluka Borivali. According to the Petitioners, the said lands, or at least portions thereof, have been included within the slum rehabilitation declaration whereby an area admeasuring 1055.50 square metres of CTS No. 610A/1A/IA (part) has been declared as a slum rehabilitation area.

9. The aforesaid declaration is stated to have been initiated pursuant to an application dated 27th November 2018 submitted by the Chief Promoter of Respondent No. 4 Society seeking declaration of land admeasuring 1087.59 square metres from the aforesaid CTS number as a slum rehabilitation area. In furtherance thereof, a site inspection is stated to have been conducted by the Deputy Collector, SRA on 8th March 2018. Thereafter, Public Notices dated 31st May 2018 and 2nd June 2018 came to be published in two newspapers, displayed at the site, and uploaded on the website of the Authority inviting objections from concerned parties.

10. It is further stated that, by a communication dated 23rd January 2018, the District Superintendent of Land Records, SRA was requested to prepare and verify a plan of the area proposed to be declared as a slum rehabilitation area by correlating the same with the GIS data of the property in terms of Circular No. 183 dated 18th December 2017. Pursuant thereto, a report accompanied by a site plan indicating boundary demarcation,

ownership particulars and related details was submitted under the cover of a letter dated 9th February 2018, recording that an area admeasuring 1055.50 square metres was permissible to be declared as a slum rehabilitation area.

11. The Petitioners contend that, in response to the aforesaid Public Notices, they had raised objections asserting their ownership over portions of the land proposed to be declared as a slum rehabilitation area. It is their case that they had specifically requested the Authorities to furnish copies of the application dated 27th February 2018 submitted by Respondent No. 4 – Society along with its annexures, as well as the Site Inspection Report prepared pursuant to the inspection conducted by the Deputy Collector, SRA on 8th March 2018.

12. According to the Petitioners, the said documents were not supplied to them. Instead, their objections came to be summarily rejected without any meaningful consideration or adjudication thereof. The Petitioners therefore submit that there has been a clear violation of the principles of natural justice, inasmuch as material documents allegedly relied upon by the Authorities for passing the slum rehabilitation order were withheld from them, thereby depriving them of an effective opportunity to respond.

13. Mr. Vishal Kanade, learned counsel appearing on behalf of the Petitioners, places reliance upon a letter dated 2nd July 2018 addressed by the Petitioners' Advocate to the Deputy Collector, SRA in response to the aforesaid Public Notices. By the said communication, the Petitioners are stated to have raised their grievances and furnished documents evidencing their ownership of the subject lands.

14. He submits that the Petitioners had specifically pointed out that the Public Notices did not annex any plan depicting the precise demarcation of the area admeasuring 1055.50 square metres sought to be carved out from the larger property admeasuring 95,238.55 square metres bearing CTS No. 610A/1A/1A (part), situated at Malad (East), Taluka Borivali, proposed to be declared as a slum rehabilitation area. In the absence of such demarcation, the Petitioners were unable to ascertain whether their lands, or any portion thereof, were affected by the proposed declaration.

15. It is therefore submitted that the Petitioners had sought disclosure of the relevant plans, records and supporting documents from the Authority so as to enable them to effectively raise objections and place a proper defence to the proposed declaration.

16. The Petitioners further submit that they attended the personal hearing before the Chief Executive Officer, Slum Rehabilitation Authority, on 1st October 2018. It is contended that, despite a specific request made by the Petitioners' Advocate for supply of the relevant documents, the said request was neither considered nor dealt with and came to be summarily rejected. According to the Petitioners, the proceedings were closed for orders on the very first date of hearing itself, with the parties merely being directed to file Written Submissions within a period of fifteen days. Mr. Kanade thereafter invites attention to the impugned slum rehabilitation order dated 26th November 2018 passed by the CEO/SRA, whereby the declaration of the slum rehabilitation area came to be confirmed. It is submitted that the CEO/SRA summarily rejected the Petitioners' contentions and proceeded to rely upon the very Site Inspection Report and photographs, copies whereof had allegedly not been furnished to the Petitioners, to record findings that the site conditions were favourable and justified the declaration of the area as a slum rehabilitation area.

17. The Petitioners thereafter invite attention to the Appeal preferred by them before the AGRC and, in particular, to their Written Submissions dated 24th June 2024 filed therein. It is submitted that the Petitioners had, once again, specifically raised the grievance regarding non-furnishing of

material documents, information, photographs and other records prior to the passing of the slum rehabilitation order. According to the Petitioners, these grievances stand expressly recorded in the impugned order dated 1st October 2024 passed by the AGRC. Mr. Kanade submits that, despite noting these contentions, the AGRC has neither discussed nor rendered any finding thereon. The Petitioners contend that the AGRC has mechanically affirmed the order of the CEO/SRA and erroneously concluded that due process had been followed, without addressing the core grievance relating to denial of a fair opportunity and breach of principles of natural justice.

18. The Petitioners therefore submit that, despite their categorical request for a plan clearly demarcating the proposed slum rehabilitation area, they were effectively disabled from making a meaningful representation or raising proper objections to the proposed declaration. It is further contended that the Authorities' failure to furnish the relevant documents, information, photographs and allied material prior to the passing of the slum rehabilitation order has resulted in a clear breach of the principles of natural justice.

19. According to the Petitioners, the CEO/SRA proceeded to rely upon the very documents, inspection material and photographs which had not been supplied to them and, on that basis, recorded findings that slum-

like conditions prevailed at the site, ultimately culminating in the impugned declaration of the area as a slum rehabilitation area.

20. In support of their submissions, the Petitioners place reliance upon the decision of this Court in *Allan Sebastian D'Souza and Anr. vs. Maharashtra Slum Areas (Improvement, clearance and redevelopment) Tribunal and others*¹ to contend that a declaration of property as a slum area fundamentally alters the character of the land and directly impacts the rights, title and interests of its owners. It is therefore submitted that the owners must necessarily be afforded a fair and adequate opportunity to contest such declaration before any adverse order is made.

21. In these circumstances, the Petitioners press for grant of urgent ad-interim reliefs and submit that the operation and implementation of the impugned orders deserve to be stayed pending further consideration of the present Writ Petition.

SUBMISSIONS OF THE RESPONDENTS

22. *Per contra*, Mr. Karl Tamboly, learned counsel appearing on behalf of Respondent No. 3, CEO/SRA submits that notwithstanding the Petitioners' grievance that the impugned orders do not expressly deal with their

¹ Order dated on 9th June 2023 passed in Writ Petition No. 3838 of 2021

request for supply of documents, information, photographs and related material prior to the passing of the slum rehabilitation order, the Petitioners have failed to demonstrate, even *prima facie*, that any prejudice has been caused to them on that account.

23. It is contended on behalf of the CEO/SRA that merely raising a grievance regarding non-supply of documents is insufficient. According to them, the Petitioners were required to positively establish that no slum-like conditions existed on the land, or any part thereof, proposed to be declared as a slum rehabilitation area. It is submitted that no such case or assertion was advanced, either before Respondent Nos. 2 and/or 3 and/or before this Court. In these circumstances, it is urged that the Petitioners are not entitled to assail the slum rehabilitation order validly passed under Section 3C(1) of the Slums Act.

24. It is further contended that the Petitioners have not satisfactorily established their ownership in respect of the land forming part of the declared slum rehabilitation area and, on this ground as well, no relief ought to be granted in the present Writ Petition.

25. Lastly, Mr. Tamboly submits that this Court ought not to exercise its extraordinary writ jurisdiction in favour of the Petitioners. It is argued

that even assuming there was some lapse on the part of the Authorities in supplying the requested documents or material prior to the passing of the slum rehabilitation order, the Petitioners have failed to demonstrate any real or substantive prejudice, particularly in the absence of a positive case that slum-like conditions were not prevailing on the subject land. In support of these submissions, reliance is placed on the decision of this Court in ***K.S.Chamankar Enterprises and Anr. vs. State of Maharashtra & Ors.***².

26. Reliance is also placed on the judgment of the Hon'ble Supreme Court in ***M. S. Sanjay vs. Indian Bank & Ors.***³ to contend that the jurisdiction of this Court under Article 226 of the Constitution of India is discretionary in nature and that, even where an impugned action or order is found to suffer from some illegality, the High Court may decline to exercise its extraordinary jurisdiction if interference would not advance substantial justice.

27. Mr. Virag Tulzapurkar, learned Senior Counsel appearing on behalf of Respondent No. 4 Society, adopts and supports the submissions advanced on behalf of the CEO/SRA. The principal thrust of the submissions on behalf of Respondent No. 4 Society is in defence of the impugned orders. Mr. Tulzapurkar submits, relying upon judicial precedents, that even assuming, without admitting that there has been any infraction of the principles of nat-

² 2018 SCC Online Bom 6591

³ 2025 SCC Online SC 368

ural justice (a contention expressly disputed by the Society), the consequence is not that the impugned order must automatically be set aside.

28. Instead, it is submitted that the Court is required to examine whether any real prejudice or failure of justice has in fact been occasioned. According to Respondent No. 4 Society, the appropriate course would be for the Court to call for and examine the records, including the documents not furnished to the Petitioners, and thereafter assess whether any injustice has resulted. In support of this proposition, reliance is placed upon the decision of the Hon'ble Supreme Court in *Dharampal Satyapal Limited vs. Deputy Commissioner of Central Excise, Gauhati and Ors.*⁴ as well as a judgment of this Court in *Veekayal Investment Co. Pvt. Ltd vs. State of Maharashtra*⁵.

29. Respondent No. 4–Society further places reliance upon the decision of the Hon'ble Supreme Court in *Union of India vs. Col J.N. Sinha and Anr.*⁶ to contend that Section 3C of the Slums Act does not expressly mandate supply of all documents, information, photographs or material sought by an objector, prior to issuance of a declaration of a slum rehabilitation area. It is therefore submitted that no breach of the principles of natural justice can be

⁴ (2015) 8 SCC 519

⁵ Order dated 22nd April 2019 passed in Writ Petition (L) No. 926 of 2019

⁶ 1970 (2) SCC 458

alleged, particularly when such principles operate only in areas not expressly governed by a valid statutory framework.

30. On this basis, Respondent No. 4 Society submits that the grievances raised by the Petitioners do not warrant interference in exercise of writ jurisdiction and that no reliefs ought to be granted in their favour.

ANALYSIS & FINDINGS

31. I have heard the parties at some length. At the present stage, I am concerned only with the question whether the Petitioners have made out a case for grant of ad-interim protection pending consideration of the present Writ Petition.

32. The challenge in the present proceedings is to the declaration issued under Section 3C(1) of the Slums Act declaring an area admeasuring 1055.50 square metres as a slum rehabilitation area, which declaration has subsequently been confirmed by the AGRC.

33. The record, as presently placed before the Court, *prima facie* indicates that the Petitioners had, at the stage of the Public Notices itself, asserted ownership over portions of the land proposed to be declared as a slum rehabilitation area and had specifically sought a copy of the application

submitted by Respondent No. 4–Society; the site inspection report prepared by the Deputy Collector, SRA; plans demarcating the precise extent of land proposed to be declared; and the material and photographs relied upon by the Authority.

34. It is not in dispute that the impugned orders do not record that such documents were furnished to the Petitioners prior to the passing of the declaration. This assumes significance particularly because the CEO/SRA, while passing the impugned slum rehabilitation order, has expressly relied upon those very materials, including the Site Inspection Report and accompanying photographs for arriving at the conclusion that slum-like conditions existed so as to warrant declaration of the area as a slum rehabilitation area. Once such material formed the foundation of the decision-making process, fairness required that the same be disclosed to the Petitioners to enable them to effectively meet the case against them. The impugned order itself records that the declaration was issued upon consideration of the Site Inspection Report and photographs indicating conditions favourable for such declaration, thereby reinforcing the necessity of prior disclosure.

35. In *Allan Sebastian D'Souza (supra)*, this Court has held that a declaration of property as a slum area is not a mere administrative formality but one which materially affects the character of the land and directly

impacts the proprietary rights of the owner. Consequently, an effective opportunity of hearing must be afforded before such a declaration is finalised.

36. Thus, the grievance raised by the Petitioners is not merely procedural but goes to the root of the decision-making process. An opportunity of hearing cannot be said to be meaningful if the affected party is denied access to the very material relied upon by the Authority in arriving at an adverse conclusion. The requirement of fairness in administrative action necessarily includes disclosure of relevant material where civil consequences ensue.

37. Notwithstanding that mere proof of ownership of land proposed to be declared as a slum rehabilitation area would not, by itself, operate as a bar to such declaration, the facts of the present case disclose a materially different situation. The Petitioners had, in response to the Public Notices issued by the Authorities, specifically requested disclosure of the detailed layout plan together with proper demarcation of the exact portion proposed to be notified as a slum rehabilitation area. The Petitioners collectively claim ownership of admeasuring 1250 sq. metres forming part of CTS No. 610A/1A/1A situated at Malad (East), Taluka Borivali, out of which an area of 1055.50 sq. metres was proposed to be declared as a slum rehabilitation area.

38. In such circumstances, it was incumbent upon the Authorities/SRA to furnish the relevant material and information so as to enable the Petitioners to ascertain whether, and to what extent, their property was sought to be included within the proposed declaration. This obligation assumes greater significance in view of the admitted position that no physical demarcation of the proposed slum rehabilitation area was carried out on site. The non-disclosure of such material, therefore, directly impacted the Petitioners' ability to effectively respond to the proposed action.

39. If, according to the Authorities, the Petitioners were not entitled to the documents, information, reports, photographs and other material sought by them prior to the passing of the slum rehabilitation order, it was incumbent upon the CEO/SRA or the AGRC to expressly record such a finding in the impugned orders, together with reasons justifying the denial of disclosure. Admittedly, the impugned orders are completely silent in this regard and no justification whatsoever has been assigned. In the absence of any reasoning reflected in the orders themselves, I cannot permit the deficiency to be supplemented by way of oral submissions or post facto justifications advanced across the bar while examining the validity of the orders on merits.

40. Moreover, the contention of the Respondents that the Petitioners were required to independently establish absence of slum-like conditions cannot, at this stage, be accepted. Without disclosure of the inspection material, plans and reports forming the foundation of the declaration, the Petitioners could not reasonably be expected to effectively rebut the proposed action. The element of prejudice, therefore, *prima facie* stands demonstrated.

41. The reliance placed by the Respondents on *Col. J. N. Sinha (supra)* is, at this stage, misplaced. That judgment recognizes that principles of natural justice may be excluded only where a statute expressly or by necessary implication excludes them. Section 3C of the Slums Act contains no such exclusion. On the contrary, where valuable proprietary rights are affected, compliance with natural justice must ordinarily be read into the statutory exercise of power.

42. Similarly, the judgments relied upon in *Dharampal Satyapal (supra)* and *Veekayal Investment (supra)* also do not assist the Respondents at this stage. Those decisions hold that violation of natural justice does not automatically result in invalidation where no prejudice is shown. In the present case, however, the Petitioners have demonstrated *prima facie*

prejudice arising from denial of access to foundational material relied upon for declaring their land as part of a slum rehabilitation area.

43. The decision in *K.S. Chamankar Enterprises (supra)* also does not advance the Respondents' case at this interlocutory stage since the Petitioners' challenge is directed not to the merits of the declaration alone but to the fairness of the decision-making process itself.

44. Equally, while it is correct, as held in *M. S. Sanjay (supra)* that jurisdiction under Article 226 is discretionary, such discretion is exercised to advance substantial justice. Where an administrative order having serious civil consequences is *prima facie* shown to have been passed without affording an effective opportunity of hearing, refusal of interim protection may itself result in irreversible prejudice.

45. It is also relevant that despite a specific order of this Court dated 28th January 2026 directing filing of affidavits in reply, none of the Respondents have placed their replies on record till date. In such circumstances, the factual assertions of the Petitioners remain substantially un rebutted at the ad-interim stage.

46. Having regard to the above circumstances, I am satisfied that the Petitioners have made out a strong *prima facie* case. Moreover, balance of

convenience also lies in their favour and there is grave likelihood of irreparable prejudice being caused to them, if interim protection is refused.

47. Accordingly, pending further consideration of the present Writ Petition, the following ad-interim order is passed:

::ORDER::

- (a) The Respondents are directed to file their Affidavits-In-Reply to the present Writ Petition within a period of 2 weeks from the date of this Order;
- (b) The Petitioners shall be at liberty to file their Rejoinder, if any, within a period of 2 weeks thereafter;
- (c) The present Writ Petition shall be taken up for hearing as expeditiously as possible and shall, if circumstances permit, be finally disposed of, at the stage of admission itself;
- (d) Till then, the operation, implementation and effect of the impugned order dated 26th November 2018 passed by Respondent No. 3, CEO/SRA declaring the slum rehabilitation area; and the impugned order dated 1st October 2024 passed by the AGRC confirming the slum rehabilitation order, shall remain stayed.

48. It is clarified that the observations contained in this order are *prima facie* in nature and confined to consideration of ad-interim reliefs. All contentions of the parties are expressly kept open.

(FARHAN P DUBASH, J.)

Shubham Gadhavepatil