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Deepak Goradia

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Nainesh Shah
Domnic Romell
Bandish Ajmera

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Jayesh Shah
Ajay Ashar

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Munish Doshi

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Subodh Runwal

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Dhaval Ajmera
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Rajnikant Ajmera
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Late Lalit Gandhi
Late Babubhai Majethia

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Ajay Ashar

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Shrikant Shitole

PRESIDENT, MIRA VIRAR CITY
Ashit Shah

PRESIDENT, RAIGAD
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PRESIDENT, NAVI MUMBAI
Vijay Lakhani

Ref. No. MCHI/PRES/20-21/096

January 18, 2021

To,
Shri Sanjay Kumar (I.A.S.)
Chief Secretary
Government of Maharashtra,
Mantralaya, Mumbai 400023

Sub: Stamp Duty payable on instruments executed for the purpose of Rehabilitation of slum Dwellers as per the Slum Rehabilitation scheme under Maharashtra Slum Areas (IC&R) Act 1971 in respect of properties situated within city of Mumbai District & Mumbai suburban District.

Ref: (1) Order of Revenue and Forests Department addressed at Mantralaya, Mumbai - 400 032 ("Department"), under Section 9 of the Bombay Stamp Act, 1958 (Bom. LX of 1998) ("Stamp Act"), bearing No. STP.1096/4565/CR-915/M.1 dated 19th December 1997 ("1997 Order"); and

(2) Order of "Department" under Section 9 of the "Stamp Act", bearing No. 2002/941/C.R. 217/M.1 dated 4th March 2008 ("2008 Order"), in supersession of the "1997 Order".

(3) Circular issued by IGR dtd 8th June 2006 for Pune

(4) CEO SRA letter dtd 13th Oct 2019 in reply to IGR letter dated 23rd June 2019

Respected Sir,

As you are aware, 45% of slum encroached lands in Mumbai are privately owned and all such lands are subjected to submission of a registered Conveyance/Sale Deed or Development Agreement by the developer, before SRA considers sanction of S.R. schemes.

In context to the above subject, our members seek your kind attention to the contravention and breach of the rules of natural justice, read with, the need for private participation for development of slums that have developed/arisen after the supersession of the "1997 Order" vide the "2008 Order" of the "Department", defeating in totality the purpose of the Maharashtra Slum Area (Improvement, Clearance and Re-development) Act, 1971 ("Slum Act"), its Preamble and the Draft National Slum Policy ("Policy"). The basic reason to include private participation for development of slums was to ensure strict compliance of the rules for rehabilitation of slums in the lands encroached upon by slum/hutment dwellers. In consideration whereof, the Developer becomes entitled to certain financial/commercial rights and/or right in area, inclusive of reductions and/or deductions thereof concerning financial liability / taxes / levies / duties / fees payable to concerned authorities/ Government.

"1997 Order" read with Clause 'C' sub-clause (12) of the "Policy" along with the Preamble to the "Slum Act", clearly and absolutely achieved the basic purpose of need for development of slums through a Developer by private participation, in the form of encouragement through profits/advantages /benefits by either monetary consideration and/or area and/or reductions/ deductions in taxes/duties/ levies/

निविदा
मुंबई सीव्हाचे कार्यालय
मुंबई प्रशासन विभाग
मंत्रालय, मुंबई ४०० ०३२
18-01-2021

cesses/etc. payable to the Government and/or concerned authorities, with respect to the concerned slum property being developed. In sharp contrast and in utter contradiction of this aforesaid, the "2008 Order" cancels the said reductions/deductions in the taxes/duties/levies/cesses/etc. payable to the Government and/or concerned authorities, resulting in the very defeat of the concept of private participation for development of slums.

The main objectives of the Policy encourages upgrading and improvement approach in all slums to provide them with better living conditions by establishing a framework for "*involving all stakeholders*" for the efficient and smooth implementation of the Policy objectives and strengthening the legal and policy framework to facilitate the process of slum development and improvement on sustainable basis.

Present Scenario:

Prior to Registration of all privately owned slum lands transactions, Adjudication is required to be done by Department of Stamps for assessing Fair Market Value (FMV). FMV or the transaction Price, whichever is higher is considered for calculation of stamp duty by the IGR as well as assessment of Income Tax payable by Land Owners and Developers, under the Income Tax Act. Fair market value assessment by department of Stamps is done under the following procedure:

1. FSI of 3 is considered for slum density up to 650 T/H to assess maximum development potential of this land;
2. Number of slum dwellers times 30 sq. mtrs. is determined as built up area of rehabilitation for the scheme. Area in proportion to rehabilitation area (1:1 in suburbs) is considered as sale area;
3. Sale area is multiplied by Ready Reckoner Rate (prescribed for open UN-encroached lands) to determine Sale Potential of this plot;
4. Rehabilitation construction Cost is determined using prevailing Construction cost of RR;
5. Fair market Value is determined by deduction of Rehab construction Cost from Sale Potential of this plot.

Above calculation method does not consider the ground realities of the slum encroached land such as:

- Buildable/Non Buildable reservations in place like schools, hospitals, retail markets, PG, RG, DP Roads and their effect on rehabilitation of existing slum dwellers on subject land;
- Proximity of Airport, water bodies, other planning restrictions, which can affect severely FSI utilization on site due to height and other restrictions;
- Higher Slum Density making Rehabilitation in situ difficult;
- Effect of all above on excess TDR generation and realistic valuation of TDR which impacts scheme profitability;
- Apart from rehabilitation construction costs no other deductions for all legitimate costs associated with slum scheme implementation like SRA Deposit, Infrastructure Charges, Development Charges, Scrutiny Fees, Staircase Premium, OS deficiency, Labour Welfare Cess, Project management Services, Architect fees, Site Infrastructure costs and Rents payable to slum dwellers during construction period are considered in this valuation;
- No effort is done by the Valuation department to assess during valuation, if it is a nascent early stage slum or slum rehab scheme has been sanctioned by way of issuance of LOI, IOA, and CC etc.

As a result of non-application of mind by Stamps authorities as indicated above, the Adjudicated value determined by Stamps Authority works out:

- a. 8 to 10 times higher than the actually agreed market rate of privately owned slum land between buyer and the seller;

- b. Identical vacant lands e.g. if 2 plots are situated within the same zone, one plot is vacant whereas the other plot is encroached upon by slums, the adjudication value of the slum plot is higher than the same vacant land. Which is absurd and thus severely affects implementation of S.R. Schemes;

I would further like to draw your kind attention on the following issues:

1. Firstly, the "2008 Order" levies reduced stamp duty of Rs. 100/- (Rupees One Hundred Only) with respect to "only rehabilitation of residential slum dwellers and this reduction in stamp duty is not made available for commercial slum premises and also not for any other instrument of the Developer". Stamp Duty Authorities relying on this "2008 Order" arrive at market value on the basis of maximum permissible Floor Space Index ("FSI") viz. 2.5/3 FSI as per Regulation 33 (10) of Development Control Regulations of Greater Mumbai, 1991, increasing the market value three - fold, despite there being no inherent value of the slum property. In contrast thereto, it is pertinent to note that State Government pays Rs. 100/- (Rupees One Hundred Only) to the Owner/Interested Party deducting there from an amount of Rs. 40/- (Rupees Forty Only) towards property taxes, per tenement, for a period of 60 (sixty) months to the concerned Owner/Interested Party, aggregating the total amount receivable by such Owner/Interested Party, meager and trivial, when it acquires property under Slum Act. It is therefore requested that this discrepancy in the calculation of consideration between valuation in case of private participation and government acquisition should be brought in consonance with each other, since they absolutely defeat the rules of natural justice and good conscience, resulting in the "2008 Order" being arbitrary, unreasonable and unjust.
2. Secondly, as per the Income Tax Act sections 56 & 50C, Income Tax authorities rely on the calculation of Stamp Duty authorities for determining tax payable by the Purchaser as well as the Owner/Seller, for determining value of the concerned slum property. Registered documents of the Owner/Interested Party with the Developer concerning development of slum property mention the amount/s paid/to be paid to the Owner/Interested Party.
3. Thirdly, Urban Development Department, Government of Maharashtra has vide Order bearing no. TPB 4305/897/CR145/08/UD /11 dtd: 16th April 2008 for the first time introduced Land Premium payable by the Developer/Co-Operative Housing Society at the rate of 25% of the Ready Reckoner value in respect of all S.R. Schemes proposed to be undertaken on lands owned by Government, Semi-Government Undertakings and Local Bodies. It is pertinent to note that the aforesaid Land Premium is chargeable on the Land/Plot area and not on FSI available for the S.R. Scheme.
4. Fourthly, Inspector General & Registrar, Pune has issued circular dated 8 June 2006 with regard to valuation of encroached land by slums (Annexure attached) for Pune region. The circular clearly states 100% slum encroached land should be valued at 40% of the ASR value.

Further we would like to also submit that:

- a) Based on the report of study group of experts setup by the State Govt. under Chairmanship of Shri. Dinesh K. Afzulpurkar, then Chairman of Bombay Port Trust dtd.20/07/1995 & with a view to provide decent permanent accommodation to the hutment dwellers in Mumbai, the State Govt. of Maharashtra vide its notification dtd.01/04/1998 published in official Gazette of Govt. of Maharashtra dtd. 09.04.1998 has sanctioned & notified General Slum Rehabilitation Scheme for implementation Slum Rehabilitation Scheme of Mumbai, as per the provisions of section 3(B) of Maharashtra Slum Areas (IC&R) Act, 1971. The fundamental principle behind the said scheme is to consider land underlying slum as a "Resource" for implementation of the Slum Rehabilitation Scheme.

- b) To facilitate effective implementation of the said Slum Rehabilitation Scheme, Govt. of Maharashtra vide order dtd.19/12/1997 issued by Revenue & Forest Department, has reduced Stamp duty chargeable under Article 5 (g-a), 25 & 36 in Schedule-I to the Bombay Stamps Act, 1958, on the instruments executed for purpose of rehabilitation of slum dwellers as per the Slum Rehabilitation Scheme under Maharashtra Slum Areas (IC&R) Act, 1971 in respect of properties situated within city of Mumbai District & Mumbai Suburban District, to Rs.100/- (Rupees One hundred only). Copy of the above said notification dtd.09/04/1998 & order dtd.19/12/1997 is attached herewith for ready reference. **(Annexure-I & II respectively)**. Accordingly, the said order dtd.19/12/1997 was implemented & reduced amount of stamp duty of Rs.100/- was applied while registering the instruments such as Conveyance Deed, Development Agreement, Deed of Assignment etc. in respect of land occupied by slums.
1. Subsequently, the State Govt. has issued explanation in respect of the said order dtd.19/12/1997 vide order dtd.04/03/2008 issued by Revenue & Forest Department, Govt. of Maharashtra. We understand that, the said explanation was issued by the Govt. with a view to clarify that, reduction of Stamp duty as per the above mentioned order dtd.19/12/1997 shall not be applicable to the instruments executed in respect of free sale component under the Slum Rehabilitation Scheme. However, the phrase, "or any other instrument of the developer" in the said order dtd. 04/03/2008 led to the interpretation that, the benefit of reduced stamp duty as per order dtd.19/12/1997 shall not be applicable to the instruments such as Conveyance Deed, Development Agreement, Deed of Assignment etc. Copy of the above said order dtd. 04/03/2008 is attached herewith for ready reference. (Annexure-III respectively). executed in respect of land occupied by slums for implementation of the Slum Rehabilitation Scheme & the office of the Stamp Collectors while carrying out adjudication of such instruments, are calculating stamp duty on such instruments at market rate considering the permissible higher FSI under Slum Rehabilitation Scheme. Therefore, undue hardship is caused in implementation of the Slum Rehabilitation Scheme.
 2. With reference to the representations made by the developer's association earlier to the Slum Rehabilitation Authority & the State Govt. in this regard, the CEO (SRA) has also taken up this issue with your office as well as with the State Govt. copies of the letter of CEO (SRA) dtd. 25/03/2010 & 08/03/2013 submitted to your office & also to the State Govt. are enclosed herewith for your kind reference. **(Annexure - IV & V respectively)**. In the letter of CEO (SRA) dtd. 25/03/2010, CEO (SRA) has annexed the list of instruments which are executed while implementing Slum Rehabilitation Scheme which need to be considered for levy of stamp duty at reduced rate as per order dtd.19/12/1997 issued by Govt.
- c) Until 10/04/2008, the public lands occupied by slums owned by State Govt. including authorities of State Govt. such as MHADA, MMRDA etc. & Municipal Corporation was allowed to be utilized for implementation of the Slum Rehabilitation Schemes by sparing the said lands on lease at nominal lease rent of Rs.1001/- for every 4000 sq.mtr land or part thereof. Thereafter, the State Govt. has decided to recover premium at the rate of 25% of the ASR for developed land for sparing public land for implementation of the Slum Rehabilitation Scheme by private developers. Thus, State Govt. has decided to value the lands occupied by slums at the rate of 25% of the ASR for developed land. The Slum Rehabilitation Authority vide its letter no.SRA/LA/opinion/07/08, dtd. 07/01/2008 had sought opinion from Hon'ble Advocate General regarding certain provisions relating to the Slum Rehabilitation Scheme in Mumbai. Query no. 3 of the said letter of SRA pertains to parity of public land & private lands while undertaking Slum Rehabilitation Schemes.

Copy of the said opinion of Hon'ble Advocate General dtd.22/01/2007 is attached herewith for kind reference. (**Annexure VI**). Also the said query no.3 & opinion of Hon'ble Advocate General thereon is reproduced hereunder for ready reference.

Query No.3:

Whether right of land owner will prevail over the right of Co-op. Hsg. Society of occupants/Developers appointed by the Co-op. Hsg. Society of occupants/N.G.O appointed by the CHS of occupants for implementation of the scheme in respect of land belong to public authorities of the State Government of Maharashtra, where proposal have already been received on or before 31/01/2006; from various developers appointed by the Co-op. Hsg. Society of slum dwellers or Co-operative Hsg. Society of slum dwellers itself or N.G.O ?

Answer to query no.3

No. under the law as it stands today, all persons who are entitled to put up a proposal for redevelopment of slum land stand on an equal footing for the purposes of D.C Regulations 33(10). The land owner has no special rights and the law does not permit him to override a proposal for redevelopment from any of the other eligible persons mentioned in the preamble/opening words of Appendix-IV and they all stand on an equal footing with the land owning authority. The DCR including Appendix-IV being delegated legislation amount to a legislative mandate to this effect. The pending proposal are required to be processed as per the judgment of the Hon'ble Division Bench in Awdesh Tiwari V/s. CEO (SRA) reported in 2006(5) BCR 772.

- d) Thus, private land occupied by existing slums are at par with public land occupied by slums & therefore the private lands occupied by slums needs to be valued on equal footing with the public land occupied by slums which are valued by the State Govt. at 25% of the ASR of developed land.
- e) We would like to further state that, the provisions of Slum Rehabilitation Schemes formulated by Govt. u/s 3(B) of Slum Act, provides for obligatory participation of the land holders & occupants of the area declared as Slum Rehabilitation Area. In the event, the private land owners do not come forward for undertaking redevelopment as per Slum Rehabilitation Scheme or do not co-operate with the society of occupiers of slum area for implementation of Slum Rehabilitation Scheme, there is provision under section 14 of the Slum Act for compulsory acquisition of the private land occupied by slum for the purpose of implementation of the Slum Rehabilitation Scheme. In such case, the owner of the land is entitled for compensation equal to 60 times monthly rent of the hutments on said land. The said amount of compensation is meagre & not even close to value as per 25% of ASR.
- f) Slum Rehabilitation Scheme is a self-financed scheme which works on the principle of cross subsidization. The free-sale component is not generated as inherent FSI potential of the land like open lands having inherent FSI potential. There are huge costs on account of rent, expenses on site on several different heads.
- g) We would like to respectfully submit that, valuation of slum occupied lands by office of the Stamp Collectors considering permissible higher FSI is unreasonable & it severely affects implementation of the Slum Rehabilitation Scheme. Due to valuing the slum occupied lands at unreasonable high value, implementation of the Slum Rehabilitation Schemes becomes unviable. Due to this the instruments for transfer of slum occupied lands/ development agreements in respect of slum occupied on private lands etc. are not registered. This has resulted in stalling Slum Rehabilitation Schemes resulting in blocking of huge revenue to the

Govt. on account of stamp duty & registration charges on instruments executed in respect of free-sale component which otherwise would have been earned by the Govt. through implementation of Slum Rehabilitation Schemes on private lands occupied by declared & notified slums.

- h) We would also like to highlight that due to such higher valuation the development of Slum rehabilitation scheme on private land is lesser in comparison to government land. Please refer to the letter written by CEO SRA dated 13 Oct 2019 in response to data called by IGR (**Annexure VII**). CEO SRA has provided the data that the out of total schemes approved by SRA from the year 2000 only 30% of private land schemes have been sanctioned & completed. We have also attached court dated

CREDAI-MCHI's PRAYER

Sir, we would like to request you to kindly consider levy of stamp duty by adopting value of the land at 25% of the ASR for developed land on instruments such as Conveyance Deed, Development Agreement, Deed of Assignment for transfer /assignment /development rights executed in respect of private lands occupied by slums for the purpose of implementation of the Slum Rehabilitation Scheme & necessary report in this regard may kindly be submitted to the State Govt.

We request you to please take appropriate action and promote development of Slum on Private land, which today has become unviable.

Thanking you.

For CREDAI-MCHI



Deepak Goradia
President



Pritam Chivukula
Hon. Secretary

गोंदणी व मुद्रांक विभाग महाराष्ट्र राज्य, पुणे

जा.क्र.झोपडपट्टी मुल्यांकन/का-१५/३७५

गोंदणी महानियंत्रक व मुद्रांक नियंत्रक,
महाराष्ट्र राज्य, पुणे यांचे कार्यालय,
नवीन प्रसारकीय इमारत, लळमजला,
कोन्सील हॉल समोर, पुणे-४११ ००१.
दिनांक :- ८/६/२००६

प्रति,

सहजिल्हा अधिकारी, वर्ग-१,
पुणे शहर / पुणे ग्रामिण,
पुणे.

विषय :- घोषित झोपडपट्टी असलेल्या क्षेत्राच्या मुल्यांकनाबाबत

पुणे आणि पिंपरी चिंचवड महानगरपालिका क्षेत्रासाठी झोपडपट्टी पुनर्वसन प्राधिकरण स्थापन करणाऱ्या आले असून अशा घोषित झोपडपट्टी असलेल्या जागा कशाप्रकारे विकसित व रावण्याच्या बाबत विशेष नियमावली तयार करणाऱ्या आली आहे. अशा घोषित झोपडपट्टी असलेल्या जागांच्या करारनाम्यांवरील मुद्रांक शुल्कामध्ये सवलत देणेचा प्रस्ताव शासनाच्या विचाराधीन आहे. दरम्यान, या नियमावलीतील तरतुदी विचारात घेऊन अशा झोपडपट्टीव्याप्त जागांचे योग्य मुल्यांकन होणे व त्यावर मुद्रांकशुल्क आकारणे आवश्यक आहे.

उपरोक्त नियमावलीनुसार, पुणे आणि पिंपरी चिंचवड महानगरपालिका क्षेत्रातील झोपडपट्टीव्याप्त जागांवरील झोपड्यांचे पुनर्वसन केल्यानंतर अशा झोपड्यांच्या संख्येच्या प्रमाणात संबंधित विकासकास जादा चटई क्षेत्र उपलब्ध होणार आहे. सबब अशा झोपड्यांचे पुनर्वसन करणेसाठी विकासकास येणारा खर्च आणि त्याबद्दल्यात त्याला मिळणारे जादा चटई क्षेत्र याबाबतचा तपशील विचारात घेता, अशा घोषित झोपडपट्टीव्याप्त जागांचे अ) विकसन करारनामे आणि ब) हस्तांतरणाचे खरेदीदस्त इत्यादी दस्तांचे मुल्यांकन खालीलप्रमाणे करणेत आहे :

अ) घोषित झोपडपट्टीव्याप्त जागांचे मालकीहक्क धारक व विकासक यांच्यात होणारे विकसन करारनामे (Development Agreement) :-

अशा प्रकरणात झोपडपट्टी पुनर्वसन प्राधिकरणाचे नियमावलीनुसार विकासकास मिळणा-या जादा चटई क्षेत्रासह एकूण चटई क्षेत्राचे (टिडीआर स्वरूपात मिळणा-या चटई क्षेत्रासह) मुल्यातून झोपड्यांचे पुनर्वसन करणेसाठी विकासकास येणारा खर्च (उदा. तारपुरता निवारा, बांधकाम खर्च, इतर अनुषंगिक विकसन खर्च/स्थापत्य, कायदा सल्ला इत्यादी) वजा करून येणारे मुल्य हे अशा झोपडपट्टीव्याप्त जागांचे खरे बाजारमुल्य समजणेत यावे.

ब) घोषित झोपडपट्टीव्याप्त जागांचे मालकीहक्क धारक व विकासक यांच्यात होणारे (आहे त्या स्थितीतील) हस्तांतरणाचे खरेदीदस्त (Conveyance) :-

अशा प्रकरणातही मुद्रांक जिल्हाधिकारी यांचे कार्यालयातील संबंधित सहाय्यक नगर रचनाकार यांनी सदर जागेची पहाणी करून, कॅडस्टल सर्व्हेबाबतचे नकाशे इत्यादी कागदपत्रे तपासून, एकूण जागेची घोषित झोपडपट्टीने व्याप्त क्षेत्राची टक्केवारी निश्चित करावी.

तदनुसार अशा झोपडपट्टीने व्याप्त क्षेत्राच्या टक्केवारीच्या प्रमाणात संबंधित जागांचे मुल्य खालीलप्रमाणे निश्चित करण्यात यावे :

एकुण जागांपैकी
झोपडपट्टीने व्याप्त क्षेत्राची टक्केवारी

विचारात घ्याययाचे मुल्य

१०० %
९० %
८० %
७० %
६० %
५० % व त्यापेक्षा कमी

४० % ✓
४५ %
५० %
६० %
६५ %

झोपडपट्टीने व्याप्त क्षेत्राच्या मुल्याच्या ४०% + उर्वरित क्षेत्राचे बाजारमुल्यदर सक्तानुसार पुर्ण मुल्य

वरीलप्रमाणे घोषित झोपडपट्टी असलेल्या जागांचे मुल्यांकन करणेबाबत आपले कार्यालयातील सर्व तांत्रिक कर्मचा-यांना आवश्यक त्या सुचना देणेत याव्यात.

मा. नों. स. व मु. नि. स. रा पुणे यांचे मान्यतेने

१५/५
१५/५

१५/५
१५/५

नोंदणी महानिरीक्षक व-मुद्रांक नियंत्रक
महाराष्ट्र राज्य, पुणे यांचे करीता.

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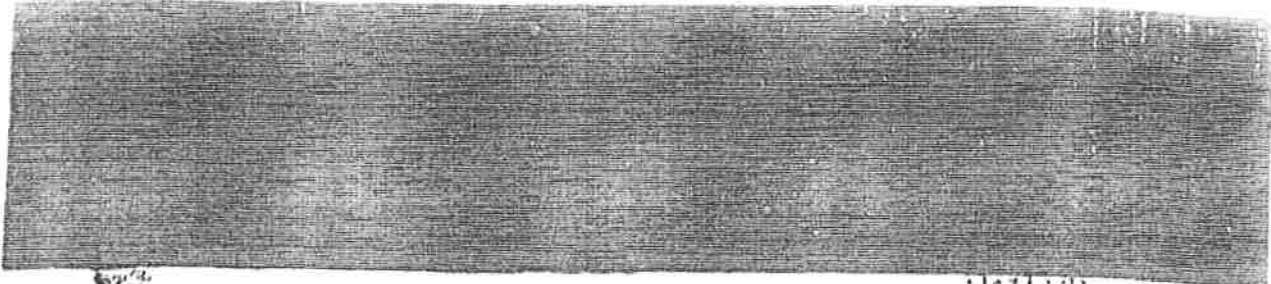
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महाराष्ट्र शासन राजपत्र, नं. १९२८/वे.शा.३१, मं. १९९९

३६२

मुंबई, दिसेंबर १९, १९९७/अपहायग २८, मं. १९९९

महसूल व वन विभाग

पंतालय, मुंबई ४०० ०३२, दिनांक १२ डिसेंबर १९९७

आदेश

मुंबई मुद्रांक अधिनियम, १९५८.
571

क्रमांक मुद्रांक: १०९६/४५६५/प्र.क्र.११५/म-१.—मुंबई मुद्रांक अधिनियम, १९५८ (१९५८ चा ६०) (त्यानंतर ज्याचा उल्लेख "उक्त अधिनियम" असा करण्यात येईल) च्या कलम ९ च्या पोट-कलम (अ) अन्वये प्रदान करण्यात आलेल्या अधिकाराचा वापर करून सार्वजनिक सेवेच्या हितार्थे तसे करणे आवश्यक आहे, अशी खात्री घाल्याने, महाराष्ट्र शासन या आदेशान्वये महाराष्ट्र गलिच्छ वस्ती (सुधारणा, निर्मूलन व पुनर्विकास) अधिनियम, १९७१ (१९७१ चा २८) व्हालीक "शोपडपट्टी पुनर्वसन योजनेअंतर्गत" शोपडी-कारकांच्या पुनर्वसनाकरिता करण्यात यावयाच्या मुंबई शहर जिल्हा व मुंबई उपनगर जिल्हा या मधील स्थावर मालकीच्या दस्तांवर उक्त अधिनियमाच्या अनुसूची एक मधील अनुच्छेद क्रमांक ५ (ग-अ) २५ व ३३ अनुसार देय असलेले मुद्रांक शुल्क रु. १०० पर्यंत कमी करीत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

से. के. शिरगोड,

शासनाचे उप सचिव.

REVENUE AND FORESTS DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 19th December 1997

Order

BOMBAY STAMP ACT, 1958.

No. STP. 1096/4565/CR-915/M-1. - In exercise of the powers conferred by clause (a) of section 9 of the Bombay Stamp Act, 1958 (Bom. LX of 1958), the Government of Maharashtra, having satisfied that it is necessary to do so in public interest, hereby reduces the stamp duty chargeable under Articles 5 (g-a), 25 and 36 in Schedule I appended to the said Act, on the instruments executed for the purpose of rehabilitation of slum dwellers as per the Slum Rehabilitation Scheme under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (Mah. XXIII of 1971) in respect of properties situated within the city of Mumbai District and Mumbai Suburban District, to Rs. 100 (Rupees One Hundred only).

By order and in the name of the Governor of Maharashtra

K. K. VERSE

Deputy Secretary to Government

महाराष्ट्र शासन राजपत्र

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भाग १४-१। वित्त एवं राजस्व विभाग, म.प्र. भा. १, १००८ / १००११११, १०३ १९७७

REVENUE AND FORESTS DEPARTMENT

Mumbai, Mumbai 400 053, dated the 4th March 2008

Order

BOMBAY STAMP ACT, 1958.

No. Mudrank. 2002/94/D.O.R. 217/M-1.—In exercise of the powers conferred by clause (a) of section 9 of the Bombay Stamp Act, 1958 (Bom. LX of 1958), and in supersession of the Government Order, Revenue and Forests, Department No. STP. 1098/4565/C.R. 915/M-1, dated the 19th December, 1997, the Government of Maharashtra, being satisfied that it is necessary as to do in the public interest, hereby reduces the stamp duty chargeable under Articles 5 (g-a), 23 and 36 in Schedule I appended to the said Act, on the instruments executed for the purpose of rehabilitation of slum dwellers as per the Slum Rehabilitation Scheme under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (Mah. XXVIII of 1971), in respect of the properties situated in the areas mentioned in column (2) of the Schedule appended hereto, to rupees one hundred.

Explanation.—The reduction of stamp duty shall be permissible only in respect of instruments relating to the tenements allotted to the slum dwellers for residential purpose as per the Slum Rehabilitation Scheme and shall not be permissible to the instruments relating to the transfer of tenements to the persons other than slum dwellers or tenements used for commercial purpose or any other instrument of the developer.

Schedule

Serial Number	Area as per the Slum Rehabilitation Scheme under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (Mah. XXVIII of 1971) in respect of the city of
(1)	(2)
1	Mumbai Municipal Corporation area
2	Pune Municipal Corporation area
3	Thane Municipal Corporation area
4	Nashik Municipal Corporation area



झोपडपट्टी पुनर्वसन प्राधिकरण
ए. व. भवन, पुणे विधान भवन
ए. व. भवन, पुणे-४११००२, महाराष्ट्र शासन
राज्य: ०२२ २६११०५१, १०५०१ २००३, १०००३
Email: pati@mah.gov.in

एस.एस. झेंडे, मा.प.से.
सूचना कार्यकारी अधिकारी

मा.क्र. झोपडपट्टी/कार्या-पुनर्वसन-१/२०१०/२११ दिनांक १४/०१/२०१०

5 MAR 2010 12 5 MAR 2010

विषय : झोपडपट्टी पुनर्वसन योजना कार्यान्वित करण्यासाठी गतिष्ठ वस्ती
खालील जमिनीच्या व्यवहारांसाठी तयार करण्यात येणाऱ्या
दस्तऐवजांसाठी रु. १००/- या सवलतीचे दराने मुद्रांक शुल्क
आकारण्याबाबत.

प्रि.अ.सी. २१४२१२५

आपले पत्र क्र. का.५/ स्टॅम्प २०१०/ प्र.क्र. २/१०/११३/२११ दिनांक १४/०१/२०१० चे पत्रात
आपण मे. शिवालीक व्हॅचर्स प्रा. लि. यांनी मा. महसूल मंत्री यांना लिहिलेल्या दि. ०६/०२/२००९ चे
पत्रात उपस्थित केलेल्या मुद्द्यांविषयी अभिप्राय कळविणे करीता विनंती केले वरून खालील प्रमाणे
त्यांनी उपस्थित केलेल्या मुद्द्यानुसार अभिप्राय देत आहोत.

१) बृहन्मुंबईतील झोपडपट्टी रहिवाश्यांच्या पुनर्वसनासाठी महाराष्ट्र शासनाने झोपडपट्टी पुनर्वसन
योजना तयार केली असून त्या प्रमाणे १९७९ च्या महाराष्ट्र झोपडपट्टी (सुधारणा, निर्मुलन आणि
पुनर्विकास) अधिनियमाच्या कलम ३ (अ) खाली सदर झोपडपट्टी पुनर्वसन योजना कार्यान्वित
करण्यासाठी विशेष नियोजन प्राधिकरण म्हणून झोपडपट्टी पुनर्वसन प्राधिकरण नियुक्त केले
आहे. सदर प्राधिकरण मुंबईतील झोपडपट्टी पुनर्वसनाच्या क्षेत्रासाठी १९६६ च्या महाराष्ट्र
प्रादेशिक नगर रचना अधिनियमा खालील स्थानिक प्राधिकरण म्हणून देखील कार्य करीत असते.
विकास नियंत्रण नियमावली १९९१, कलम ५ (३) (दोन) च्या तरतुदी नुसार मिळकतीचे
मालकाने / विकासकाने / सह. गृह. संस्थेने / बिगर शासकीय संघटनानी झोपडपट्टी पुनर्वसन
योजना राबविणे करीता प्राधिकरणाकडे अर्ज करणे आवश्यक असते. झोपडपट्टी पुनर्वसन
प्राधिकरणाकडून विकासाची परवानगी मागणाऱ्या अशा अर्जदाराने आपल्या अर्जाबाबत
दुय्यम निबंधकांच्या कार्यालयात रितसर नोंदणी केलेली मालकीचे हक्कासंबंधी दस्तावेज जम
अभिहंस्तातरण खत, विकासाचा करार, मुखत्यार नामा वगैरे सादर करणे आवश्यक असते. या
शिवाय वेळोवेळी विकास नियंत्रण नियमावली व धोरणे यांच्या तरतुदीनुसार भूद्वारे
मिळविण्याकरीता व योजनेच्या आभंलवजावणीकरण्याच्या प्रक्रिये दरम्यान प्रतिज्ञापत्र, हमीपत्र व
क्षतिपुर्ती बंधपत्र अर्जदाराने सादर करणे आवश्यक असते.

माहिती अधिकार अधिनियम २००५ नुसार
पुरविण्यात आलेली माहिती/नगर
भूसाधन विभाग झो.पु.प्रा.

खानगी जमिनीवर झोपडपट्टी पुनर्वसन योजना राबविण्यास इच्छुका असलेल्या विकासकानां
 मालकांनी या महसूल मंत्री यांना असे निवेदन केले आहे की, झोपडपट्टी पुनर्वसन योजना
 राबविण्यासाठी संबंधित जमिनीचे विकास हक्क प्राप्त करताना जमिन खरेदी करताना ते
 वेगवेगळ्या जमिन मालकांकडून अभिहस्तांतरण खत/ विकास करार/ मुद्रांक नामा निष्पादित
 करतात आणि त्यांच्या नोंदणीकरीता ते (विकासक/ मालक) मुद्रांक जिल्हाधिकारी यांचे
 कार्यालयात जेव्हा मुद्रांक शुल्क भरणेकरीता जातात तेव्हा अडचणी निर्माण होतात.

- २) वरील बाबत जमिनीच्या हस्तांतरणात ज्या जमिनीवर सध्या झोपडपट्टीचा कब्जा आहे. तिच्या बाबतीत
 प्रत्येक दस्तावेजाला रु. १००/- इतक्या ठोक रकमेचे मुद्रांक शुल्क आकारण्यात यावे म्हणून
 मुद्रांक शुल्कात अकारणी करीता सवलत देणारे महसूल व वनविभाग यांचे शासन निर्णय क्र.
 १०१६/४५६५/ प्र.क्र. १२५/ म १ दिनांक १९/१२/१९९७ यातील मजकुराकडे आपले लक्ष
 वेधण्यात येत आहे. त्यानंतर सदर आदेशाचे शुध्दीपत्र क्र. एमटीपी/ २००२/ ९४१/
 प्र.क्र. २१७/ म १ दि. ०४/०३/२००८ चे राज्य शासनाच्या महसूल व वनविभागाने निर्गमित केले
 असून त्यात पुढील स्पष्टीकरण करण्यात आले आहे की, "मुद्रांक शुल्कातील अशी सवलत
 ही झोपडपट्टी पुनर्वसन योजनेप्रमाणे निवासी हेतू करीता झोपडपट्टी रहिवाश्यांना वाटप
 करण्यात येणाऱ्या गाळ्यासंबंधीच्या दस्तावेजांनाच अनुज्ञेय राहिल आणि झोपडपट्टी
 रहिवाशी सोडून इतर व्यक्तींना हस्तांतरित होणाऱ्या गाळ्यांसंबंधीच्या दस्तावेजांना ही
 सवलत अनुज्ञेय होणार नाही. तसेच व्यापारी हेतू साठी वापरण्यात येणाऱ्या गाळ्याच्या
 दस्तावेजांना किंवा विकासकाच्या इतर कोणत्याही दस्तावेजाला ती सवलत अनुज्ञेय
 होणार नाही "
- ३) उपरोक्त नमुद शुध्दीपत्रातील स्पष्टीकरण निर्गमित करताना शासनाचा उद्देश असा होता की,
 मुक्त विक्रीघटकांच्या बाबतीत विकासकाने केलेल्या व्यवहारांना मुद्रांक शुल्कात सवलत
 अनुज्ञेय होणार नाही. परंतु सदर स्पष्टीकरणात "किंवा विकासकाच्या इतर कोणत्याही
 दस्तावेजाला ती सवलत अनुज्ञेय होणार नाही" असा शब्दप्रयोग करणेत आल्याकारणाने
 मुद्रांक जिल्हाधिकारी यांचे कार्यालय आता असा आग्रह करित असल्याचे समजते की,
 सध्याच्या झोपडपट्टीच्या व्यापलेल्या जमीनी हस्तांतरण करणेकरीता विकासकाने निष्पादित
 केलेल्या दस्तावेजावर देखील पूर्ण दराप्रमाणे मुद्रांक शुल्काचा भरणे करावा. म्हणून वरील
 शुध्दीपत्रातील तरतुदीचा अर्थ समजण्याकरीता योग्य स्पष्टीकरण निर्गमित करणे आवश्यक
 आहे.
- ४) ही बाब स्पष्ट व्हावी म्हणून झोपडपट्टी पुनर्वसन योजनेच्या अंमलबजावणीसाठी आवश्यक
 दस्तावेज कोणकोणत्या प्रकारचे आहेत ते ठरविण्यात येवून या सोबतच्या जोडपत्र १ मध्ये
 दिल्याप्रमाणे प्रवर्गामध्ये त्यांचे वर्गीकरण करण्यात आले आहे.
- ५) येथे हे नमूद केले पहिजे की, मुंबईतील झोपडपट्टी पुनर्वसन योजना ही, अशी योजना आहे की
 ज्यात पुनर्वसन घटकांच्या बांधकामाचे खर्चाकरीता, विकासकांना मुक्त विक्री घटक बांधतेवेळी

माहिती अधिकार अधिनियम २००५ नुसार
 पुरविण्यात आलेली माहिती/ नगर
 भूमान विभाग झो.पु.प्र.



संख्या १ :-

शासन निर्णय महसूल व योजना विभाग क्र. १०१६/४५६५/ प्र.क्र. ११५/ म १ दिनांक ११/१२/१९९७ व सदर शुध्दीपत्रक क्र. एमडीपी/ २००२/ १४१/ प्र.क्र.२१७/म २ दि. ०४/०३/२००८ नुसार झोपडपट्टी पुनर्वसन योजनेअंतर्गत येणाऱ्या जमिनीच्या मालकी हक्काचे दस्त नोंदणी करिता अकारण्यात येणारी मुद्रांक शुल्क सवलत ही खालील नमुद दस्तऐवजांचे नोंदणी करिता लागू असेल.

- १) झोपडपट्टी पुनर्वसन क्षेत्र म्हणून घोषित आलेल्या जमिनीच्या बाबतीत जमीन मालक आणि विकासक /सहकारी गृहनिर्माण संस्था/ अशासकीय संघटना यांच्यातील अभिहस्तांतरण दस्त/ खरेदीखत/ कुळमुखत्यार पत्र/ दानपत्र/ बसोसपथ किंवा तत्सम दस्तऐवज.
- २) झोपडीधारकांची नियोजित सहकारी गृहनिर्माण संस्था आणि जमीन मालक /विकासक/ अशासकीय संघटना यांच्या मध्ये करण्यात येणारे विकास करारनामा/ कुळमुखत्यारपत्र/ हमीपत्र /वचनपत्र/ घोषणापत्र किंवा तत्सम संबंधित दस्तऐवज.
- ३) झोपडीधारकांनी जमीन मालक /विकासक/ सहकारी गृहनिर्माण संस्था/ अशासकीय संघटना यांना दिलेले व्यक्तिगत / एकत्रित समतीपत्रे.
- ४) झुहमुंबई विकास नियंत्रण नियमावली नियम ३३(१०) परिशिष्ट ४ चे कलम १.१५ मधील तरतुदीनुसार झोपडीधारक आणि जमीन मालक /विकासक/ सहकारी गृहनिर्माण संस्था/ अशासकीय संघटना यांच्यामध्ये करण्यात आलेला विकास करारनामा.
- ५) झोपडपट्टी पुनर्वसन योजनेअंतर्गत पुनर्वसन घटकाखालील जमिनीच्या बाबतीत जमीन मालक/ विकासक/ अशासकीय संघटना आणि झोपडपट्टी पुनर्वसन योजनेअंतर्गत स्थापन केलेली झोपडपट्टी वासीयांची सहकारी गृहनिर्माण संस्था यांचे मधिल अभिहस्तांतरण दस्त/ खरेदीखत किंवा भाडेपट्टा करारनामा.
- ६) झोपडपट्टी पुनर्वसन योजनेअंतर्गत विक्री घटकाखालील जमिनीच्या बाबतीत मालक/ विकासक /अशासकीय संघटना आणि विक्री घटकाखालील इमारतीतील सदनिका /गाळे धारकांची सहकारी गृहनिर्माण संस्था/ असोसिएशन यांच्यातील अभिहस्तांतरण दस्त किंवा भाडेपट्टा करारनामा.
- ७) झोपडपट्टी पुनर्वसन योजना राबविण्याकरीता जमीन मालक/ सहकारी गृहनिर्माण संस्था/ मुख्य प्रवर्तक/ विकासक / अशासकीय संघटना यांनी द्यावयाचे हमी पत्र/प्रतिज्ञापत्र/ घोषणापत्र इत्यादी दस्तऐवज.
- ८) विकास नियंत्रण नियमावली नियम क्र. ३३(१०) मधील तरतुद क्र ३.११ नुसार खालगी बोजाविरहीत जमिनीवर शासनाच्या अतिमाहत्वाच्या सार्वजनिक उद्देशाच्या प्रकल्पांनी बाधित होणाऱ्या प्रकल्पप्रस्तांदाच्या पुनर्वसनाकरीता राबविण्यात येणाऱ्या झोपडपट्टी पुनर्वसन योजनेकरीत आवश्यक जमीन शासनास हस्तांतरीत करण्यासाठी खालगी जमीन मालक / विकासक आणि 'झोपडपट्टी पुनर्वसन प्राधिकरण' किंवा 'शानाचो प्रकल्प राबविणारी संस्था/विभाग' यांचे मधील अभिहस्तांतरण दस्तऐवज किंवा खरेदीखत.

माहिती अधिकार अधिनियम २००५ नुसार
पुरविण्यात आलेली माहिती/नमद.
भूमापन विभाग झो.पु.प्रा.



झोपडपट्टी पुनर्वसन विभाग
महाराष्ट्र शासन, मुंबई
पत्ता : (पुणे) मुंबई - ४०० ००१
दुरध्वनी : २२२२२२२२, २२२२ २२२२
फॅक्स : २२२२२२२२, २२२२
ई-मेल : info@mh.gov.in

निर्मल के. देशमुख, भा.प्र.से.
मुख्य कार्यकारी अधिकारी

मा.अ. झोपडपट्टी भूकमीनार विभाग, ज.अ.अ. मुंबई शासकीय भूकमीनार विभाग
मुंबई - ४०० ००१

**विषय : झोपडपट्टी पुनर्वसन योजने अंतर्गत येणाऱ्या जमिनीचे मूल्यांकन सध्यातील
समस्याबाबत**

बृहन्मुंबई महानगर पालिका क्षेत्रातील झोपडपट्टी रहिवाश्यांच्या पुनर्वसनासाठी महाराष्ट्र शासनाने झोपडपट्टी पुनर्वसन योजना तयार केली असून, महाराष्ट्र झोपडपट्टी (सुधारणा, निर्मुलन आणि पुनर्विकास) अधिनियम १९७१, कलम ३(अ) खाली सदर झोपडपट्टी पुनर्वसन योजना कार्यान्वित करण्यासाठी विशेष नियोजन प्राधिकरण म्हणून झोपडपट्टी पुनर्वसन प्राधिकरण नियुक्त केले आहे. सदर प्राधिकरण मुंबईतील झोपडपट्टी पुनर्वसनाच्या क्षेत्रासाठी महाराष्ट्र प्रादेशिक नगर रचना अधिनियम १९६६ नुसार स्थानिक प्राधिकरण म्हणून देखील कार्य करीत आहे.

मुंबई शहरातील झोपडपट्टी क्षेत्राचा विकास करून, मुंबई शहर हे झोपडपट्टी मुक्त शहर करणे हे प्राधिकरणाचे प्रथम उद्दीष्ट आहे. शहरातील अंदाजे निम्न्यापेक्षा अधिक जनता झोपडपट्ट्यातून राहत असली, तरी शहर विकासासाठी आवश्यक मनुष्यबळाचा पुरवठा त्यातून उपलब्ध होत असतो. प्राधिकरणाकडून राबविण्यात येत असलेल्या झोपडपट्टी पुनर्वसन योजने अंतर्गत झोपडपट्टी क्षेत्राचा विकास करून झोपडपट्टी वासीयांना त्याच ठिकाणी इमारत बांधून त्यात सदनीका मोफत दिल्या जातात. त्यामुळे शहरातील सदरचा भाग झोपडपट्टी मुक्त होवून, शहर सुंदर होण्यास मदत तर होतेच, त्याचबरोबर शहरातील मनुष्यबळही स्थलांतरीत न होता कायम राहते.

मुंबई शहरातील झोपडपट्टी क्षेत्रे ही शासकीय/ म्हाडा/ महानगरपालिका तसेच खाजगी मालकीचे मिळकतीवर वसलेली आहेत. अशा क्षेत्रांचा विकास करते वेळी सदर मिळकतीचे दान भागात विभाजन करून एका भागात झोपडपट्टीवासीयांकरीता पुनर्वसन घटक व दुसऱ्या भागात विकासकास त्याचे योजनेतील योगदानाप्रित्यर्थ विक्री घटकाचे बांधकाम करता येते. झोपडपट्टी पुनर्वसन योजनेकरीता लागणारा खर्च हा संपुर्णपणे विकासकाद्वारे करण्यात येत असतो. तसेच पुनर्वसन घटकातील रहिवाशांकरीता प्रत्येकी २०,०००/- रु. इमारत दुरुस्ती खर्च देखील विकासकाद्वारे प्राधिकरणाकडे जमा केला जातो. त्यानंतर इमारतीचे बांधकाम करते वेळी रहिवाशांना तात्पुरते संक्रमण शिबिर बांधून दिले जातात किंवा रहिवाशांना घरभाडे

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KRA
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र. अ. (जी. अ.)

वेतून त्यांची पुनर्वसन योजनांची अंमलबजावणी करणे तसेच त्यांच्या बाबतची विचारणीय कामे करणे हे उद्देश्य राहिले आहे.

झोपडपट्टी पुनर्वसन योजनेत सामिल मिळकतीपैकी पुनर्वसन घटक इमारतीचे इंधाचे मालकी हक्क हे झोपडपट्टी वासीयांच्या सह गृह. संस्थेस विकासकांद्वारे विनामुल्य हस्तांतरित केले जातात, त्यामुळे सदर मिळकती संबंधित विकास करारनामे, मूळत्वरनामे, हमीपत्र, आपिहस्तांतरण पत्र इत्यादी नोंदणी करावयाच्या दस्तऐवजांकरा प्रघातनीय दराने मुद्रांक शुल्क आकारणे उचित ठरणार नाही असे उकडील मत आहे. झोपडपट्टी पुनर्वसन योजने अंतर्गत भविष्यात विकसीत होणाऱ्या क्षेत्रावर अगोदरच मुद्रांक शुल्क आकारले जाते. त्याचवेळी योजनेच्या विक्री घटकाच्या क्षेत्रावर ते आकारणे वाजवी होईल.

झोपडपट्टी खालील क्षेत्र हे त्या योजनेची अंमलबजावणी करण्यासाठी एक साधन संपत्ती आहे, म्हणून झोपडपट्टी पुनर्वसन योजना तयार करण्यामागील वरील उद्देश लक्षात घेणे आवश्यक असून, कायदे मंडळाच्या हेतूशी अनुरूप अशा प्रकारे सदर योजना जलदगतीने राबविणे सुलभ होणे करीता दि.१९/१२/१९९७ च्या शासनाच्या आदेशाची अंमलबजावणी करणे आवश्यक आहे. जेणे करून योजना राबविण्यासाठी आवश्यक प्रत्येक दस्तऐवजाला टोक रक्कम रु १००/- या सबलतीचे दराने मुद्रांक शुल्क आकारणे योग्य होईल. तरी आपले स्तरावरून पुढील कार्यवाही होणेस विनंती आहे.

आपला

माहितीचा अधिकार अधिनियम-२००५
खालील अपिलेड

सही x x x

(निर्मल देशमुख)

मुख्य कार्यकारी अधिकारी,
झोपडपट्टी पुनर्वसन प्राधिकरण.

प्रति,

मा. श्री. मिलिंद धेंडकर, मा.प.स.
सचिव, मदत व पुनर्वसन (मुद्रांक),
मंत्रालय, मुंबई ४०० ०३२.

✓ प्रत - मा. प्रधान सचिव, गृहनिर्माण विभाग, मंत्रालय यांना माहिती करीता सादर

(निर्मल देशमुख)

मुख्य कार्यकारी अधिकारी,
झोपडपट्टी पुनर्वसन प्राधिकरण.

January 22, 2007

To,
The Legal Advisor,
Slum Rehabilitation Authority,
5th Floor, Girihat Nandan Bhavan,
Bandra (East),
Mumbai - 400 051

Re. Your letter No.SRA/LA/Opinion/07/08 dated January
07, 2008 requesting opinion.

Dear Sir,

1. Clause 33(10) of the Development Control Regulations for Greater Mumbai, 1991 (DCR) is a provision which enables redevelopment of properties which have been declared as slum or are deemed to be slums within the meaning of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act 1971 (The Slum Act). DCR 33(10) provides that provisions of Appendix-IV of the DCR shall apply for redevelopment of slums. The preface to Appendix-IV provides that the provisions thereof will apply to redevelopment of slums by:

- i) owners
- ii) developers
- iii) co-operative Housing Societies of hutment dwellers / Pavement dwellers.
- iv) Public Authorities such as; MHADA, MMC, MMRDA etc., and;
- v) non governmental organizations registered under the Maharashtra Public

2. Clause 1 of Appendix-IV which sets out rights of hutment dwellers is not relevant for the present case. Clause 2 thereof contains the condition on which building permissions for slum rehabilitation projects can be granted. Clause 2.1 provides that a

proposal for a Slum Rehabilitation Project (S.R. Project) can be submitted to the Slum Rehabilitation Authority (S.R.A.). Clause 2.2 provides that the S.R.A. is required to give its approval to such a scheme if it is in accordance with all provisions of the said regulation and that approval is communicated in the form of a Letter of Intent (LOI) as per the provisions of Clause 2.3. Prior to the issuance of the LOI, certified Annexures - I, II & III are required to be obtained from the concerned authorities. After issuance of the aforesaid Letter of Intent, the SRA which is also a Special Planning Authority for the purpose of redevelopment of slums under the Maharashtra Regional Town Planning Act 1966 is required to follow the due process as contemplated by the M.R.T.P. Act for giving building permission to the slum rehabilitation project. Thus the scheme is that upon receipt of an Letter of Intent, the applicant for the slum development scheme which may be any of the parties mentioned in para-1 of Appendix - IV, is required to apply for building permission in accordance with Section 45 of the M.R.T.P. Act 1966 to the SRA which in turn is required to approve the building plans; first for the rehabilitation component and thereafter for the free sale component subject to the provisions contained in Appendix-IV. Clause 2.8 provides after the in principle approval is given to the project i.e. Letter of Intent is issued, the SRA should obtain a No Objection Certificate (NOC) for building permission from the land owning authority on whose land the said slum is located. Such land owning authority may be any department, undertaking, or agency of the Government including MHADA or the Municipal Corporation. The NOC is to be received within 30 days from the date of intimation of the said approval to the project is communicated. Clause 2.8 further mandates that in the event the NOC is not issued in 30 days as provided, it shall be deemed to have been given by the concerned land owning authorities.



K. M. KADAM

3. According to the SRA it has approved various slum rehabilitation schemes on lands belonging to different public authorities and these schemes are at various stages of implementation. Apart from the sanctioned slum rehabilitation schemes the SRA has also received several proposals for slum rehabilitation schemes from private developers on land belonging to MHADA as of October 31, 2006, which proposals are at different stages of scrutiny. The date of October 31, 2006 is important inasmuch as in accordance with the Government's new draft housing policy from November 01, 2006S, no new proposal for redevelopment of slums on lands belonging to public authorities are being accepted or entertained and only pending applications that is those which are pending prior to November 01, 2006 are being considered and processed.

4. The Maharashtra Housing and Area Development Authority (MHADA) has issued a communication to the SRA that it (MHADA), intends to undertake redevelopment of the existing slums on its own lands wherein proposals for other developers appointed by co-operative housing societies of slum dwellers have already been received by the SRA and are pending consideration at various stages before the Slum Rehabilitation Authority. In this context my opinion is sought on the following questions:

1. Whether prior NOC of the land owning authority as defined in clause 2.8 under Appendix IV of DCR 33(10) is required for approval of the S.R.S. i.e. grant of LOI in favour of developer / Co-op. Society of occupants / NGO in case of existing slum on land belonging to public authorities viz. State Govt., MHADA, M.C.G.M. etc.?

Whether it is mandatory for the land owning authority to grant such NOC within 30 days of the receipt of Intimation Of Approval of the scheme (LOI) or otherwise?

3. Whether right of land owner will prevail over the right of Co-op Hsg. Society of occupants / Developer appointed by the Co-op Hsg. Society of Occupants / N.G.O. appointed by the CHS of Occupants for implementation of the scheme in respect of land belonging to public authorities of the State Government of Maharashtra, where proposals have already been received on or before 31/10/2006; from various developers appointed by the Co-op. Hsg. Society of slum dwellers or Co-operative Hsg. Society of slum dwellers itself or N.G.O.?

5. Before considering the questions raised for my opinion, I may briefly advert to the relevant legal provisions and consider their scope and meaning. The genesis of the entire slum rehabilitation scheme is to be found in the provisions of the Slum Act, and Clause 33(iv) 06 of the sanctioned DCR. Under Section 3(B)(4)(e) of the Slum Act a scheme of development of slum rehabilitation area can be forwarded by the land owners and the occupants either by themselves or through a developer. Similarly the opening words of Appendix IV indicate that a proposal for redevelopment / reconstruction of accommodation for hutment / pavement dwellers can be made by the owners, developers, co-operative societies of occupants and public authorities such as MHADA, MIDC, MMRDA etc. In other words it is open to any one of the aforesaid persons to put up a proposal to implement a Slum Rehabilitation Scheme subject to their complying with the requirement of Appendix IV of the D.C. Regulations, 1991.



R. M. KADAM

6 On receipt of such an application, the SRA is required to process the same, issue Annexure I, II and III and thereafter a Letter of Intent to the promoter of the Slum Rehabilitation Scheme. Under Appendix IV of D.C. Regulations 1991, prior to putting up a redevelopment proposal, the proposed redeveloper is required to ensure that all necessary documents etc. are filed with the Slum Rehabilitation Authority so that the necessary Annexure I, II and III culminating in a Letter of Intent is issued in his favour. It is only when the in principle approval in the form of Letter of Intent is issued by SRA that the developer can put up building plans and seek building permission. Provided his scheme complies with the requirement of the SRA and the provisions of Section 45 of the MRTTP Act building permission can be given to the developer so as to enable him to commence construction on the concerned slum. From the way the clause 2.8 of Appendix IV is worded, it is apparent that the NOC is to be obtained from the land owning authority after the LOI i.e. in principle approval is given to the project. The NOC of the land owning authority is not to grant of an LOI but to the grant of building permission. The NOC from the land owning authority is not contemplated prior to approving the slum redevelopment scheme and is contemplated only as a condition for giving building permission to the concerned developer. The opening words of Clause 2.8 read as follows: "As soon as the approval is given to the project". It is therefore ex-facie clear and obvious that the NOC from the land owning authority like MHADA, MIDC, MMRDA, etc., is to be sought by the Slum Rehabilitation Authority only after in principle approval is given. Upon reading Clause 2.8, it is clear that the same is intended to protect the right of the land owning authority albeit to a limited extent. It is intended to ensure that no building is constructed which would adversely affect any prior layout plan or development proposal which is already under implementation by the land owning authority. Similarly Clause 2.8 gives the land owning authority an opportunity to object



GENERAL
KADAK

to the specific building plans so that fresh building plans to meet its objections can be put up by the proposer of the redevelopment scheme. In my view Clause 2.8 is not meant as a second opportunity to the land owning authority to override a scheme whether existing or under consideration or process and is only meant to ensure that arbitrary and unplanned construction is avoided. Clause 2.8 does not appear to permit the land owner to take over a scheme or to by pass a proposal which is pending with or already under consideration by the Slum Rehabilitation Authority. That Clause 2.8 has a very limited application is also apparent from the fact that the NOC from the land owning authority whether the MIDC, MHADA or any other authority is to be given within 30 days of the Letter of Intent and in the event of it not being given, it is deemed to have been given. A limitation of 30 days coupled with a deeming provision is clear pointers to its limited scope. Most importantly since the building plans are required to be approved by the planning authority i.e. SRA, the role of the land owning authority is of limited import.

7. Even more importantly, both Section 3(B)(iv)(e) of the Slum Act as well as the opening words of Appendix - IV place all proposals for redevelopment whether they be from a public authority or a private developer or co-operative society or slum dwellers or NGOs on par. In law under the scheme of the Slum Act and the DCRs all are equal for the purposes of a Slum Redevelopment Scheme and the fact that an owner is a public authority does not give it any additional rights. Since Clause 2.8 is part of this overall scheme it is proper to interpret it in the context of the scheme of the Slum Act and Appendix IV of the DCR. Under this scheme clearly the factum of ownership does not matter and does not permit the land owning authority to override or bypass the statutory process contemplated by law. The DCRs are delegated legislation and form a part of the statute under Section 22(m) and 158 of the MRTP Act. [See Pune Municipal Corporation V/s. Promoters and Builders Association (2004) 10 SCC 796]. Hence the



provisions of DCR 33(10) contain a legislative mandate that all proposals for of redevelopment schemes there under are on par and are considered as equal for its purposes. Under DCR 33(10) there is no primacy to a land owner even if it is a public authority.

7. Thirdly it may be noted that the Hon'ble Bombay High Court in *Awdesh Tiwari Vs. CEO, SRA (2006) 5 B CR 772* has directed that once a particular Slum Rehabilitation Scheme proposal is under consideration, by the SRA then another proposal should not ever be entertained till the first proposal is finally disposed of on merits. In view of the aforesaid judgment also it would appear that under the current legal dispensation as contained in DCR 33(10), the pending slum rehabilitation proposals and sanctioned schemes are required to be gone through to the final stage one at a time in order of priority and only to the extent that a prior proposal fails on merits will it be open to the SRA to entertain a later proposal from another person other than a proponent of the Slum Rehabilitation Scheme. This will also apply to MHADA, BMC, MMRDA and other authorities, since they are on par with all others for the purposes of DCR 33(10).

Accordingly in the light of DCR 33(10) as presently in force, the three queries are answered as follows:

Answer to Query No.1:

No. The NOC contemplated under Clause 2.8 and Appendix IV is required only after the grant of Letter of Intent to a redevelopment proposal and not before. This is apparent even on a plain reading of Clause 2.8 of Appendix IV.



ADVOCATE GENERAL
R. M. KADAM

High Court Building,
Pune, Maharashtra 411 001

Answer to Query No. 2:

2. No. The NOC does not appear to be mandatory. Since it is not a NOC for the redemption proposal but an NOC as to whether the particular building plan is objectionable. From the scheme of Appendix IV it appears that Clause 2.8 is a limited protective measure against haphazard or arbitrary building plans being considered by the Planning Authority i.e. SRA and nothing more especially since if the NOC is not granted within 30 days, it is deemed to have been granted.

Answer to Query No. 3:

3. No. Under the law as it stand today, all persons who are entitled to put up a proposal for redevelopment of slum land stand on an equal footing for the purposes of D.C. Regulations 33(10). The land owner has no special rights and the law does not permit him to override a proposal for redevelopment from any of the other eligible persons mentioned in the preamble / opening words of Appendix IV and they all stand on an equal footing with the land owning authority. The DCR including Appendix IV being delegated legislation amount to a legislative mandate to this effect. The pending proposals are required to be processed as per the judgment of the Hon'ble Division Bench in Awdesh Tiwari V/s. C.E.O. S.R.A reported in 2006(5) BCR 772.

Yours sincerely,

R. M. Kadam

(R. M. KADAM)



झोपडपट्टी पुनर्वसन प्राधिकरण

SRA/CTSO/OW/२०१९/५४३४९

जा.क्र. झोपुप्रा/ जिअभूअ/झो.पू.यो./मुद्रांक शुल्क/२०१९/७५७२

दि. १३/१०/२०१९

प्रति,

मा. नोंदणी महानिरिक्षक मुद्रांक नियंत्रक,

महाराष्ट्र राज्य, पुणे.

नविन प्रशासकीय इमारत, तळमजला,

विद्यानभवन समोर, पुणे - ४११ ००१.

विषय :- झोपडपट्टी पुनर्वसन योजना कार्यान्वित करण्यासाठी गलिच्छ वस्ती खालील खाजगी जमिनीच्या व्यवहारासाठी तयार करण्यात येणाऱ्या दस्तांसाठी सवलतीच्या मुद्रांक शुल्क आकारण्याबाबत.

संदर्भ :- आपलेकडील पत्र क्र. सहसंचा-मु/पु/MCHI-CKEDA/७२, दि. २३/०२/२०१९

झोपडपट्टी पुनर्वसन प्राधिकरणामार्फत बृहन्मुंबई महानगर पालिका क्षेत्रातील (मुंबई शहर जिल्हा व मुंबई उपनगर जिल्हा) झोपडपट्टी व्याप्त क्षेत्रावरील झोपडपट्टी पुनर्वसन योजना स्विकारण्यात येऊन महाराष्ट्र झोपडपट्टी (सुधारणा, निर्मुलन व पुनर्वसन) अधिनियम १९७१ मधील तरतुदीन्वये त्यावर कार्यवाही करण्यात येते. झोपडपट्टी पुनर्वसन प्राधिकरणाकडे उपलब्ध GIS Data नुसार खालील तक्त्यात दर्शविल्याप्रमाणे बृहन्मुंबई क्षेत्रातील सांख्यिक मालकांचे / खाजगी मालकांचे भुखंड झोपडपट्टी व्याप्त आहेत.

सांख्यिक मालकांच्या जमिनी				खाजगी मालकांच्या जमिनी		मालकी हक्काची माहिती उपलब्ध नाही (एकर)	एकूण (एकर)
सरकारी (एकर)	बृहन्मुंबई महानगर पालिका (एकर)	म्हाडा (एकर)	केंद्र तासन (एकर)	खाजगी (एकर)	खोती (एकर)		
२१४०.२१	८५६.४३	२७२.३७	५१२.७७	३६२०.१४	५१८.३८	२५२.८८	८१७१.९८
	४६%			५१%		३%	

संदर्भित पत्रान्वये सन २००० पासून झोपडपट्टी पुनर्वसन योजना मंजूर प्रकल्पांची वर्षानुवर्षे माहिती मागणी करण्यात आलेली आहे. त्याअनुषंगाने संदर्भित पत्रामध्ये नमूद तक्त्यामध्ये अंशतः सुधारणा करून सन २०१७ व २०१८ या दोन वर्षांची माहिती संकलित करून खालीलप्रमाणे माहिती सादर करण्यात येत आहे.

अ. क्र.	प्रकार	जमिन मालकी	सन २०१७ मध्ये झो.पू.प्रा.मार्फत आराखपत्र निर्गमित करण्यात आलेल्या झोपडपट्टी पुनर्वसन योजनांची संख्या	सन २०१८ मध्ये झो.पू.प्रा.मार्फत आराखपत्र निर्गमित करण्यात आलेल्या झोपडपट्टी पुनर्वसन योजनांची संख्या	सन २०१७-२०१८ मध्ये आराखपत्र निर्गमित करण्यात आलेल्या एकूण योजना	योजनांतील मंजूर पुनर्वसन सदनिकांची संख्या	टक्केवारी
१	खाजगी	खाजगी	२७	२९	४६	७०८५	३०.०६%
२	सरकारी	सरकारी	६	३	९	४२६३	६७.९४%
३		बृ.म.न.पा.	५	५	१०	३०८९	
४		म्हाडा	६	४	१०	४४६३	
५		सरकारी + बृ.म.न.पा.	०	१	१	२६४	
६		म्हाडा + बृ.म.न.पा.	०	१	१	३८३४	

प्रशासकीय इमारत, प्रा. अनंत काणेकर मार्ग, वांद्रे (पूर्व), मुंबई - ४०० ०५१.

दुरध्वनी क्र. ०२२ - २६५९०५१९/०४०५/१८७९/०९९३ फॅक्स - ९१.२२ - २६५९०४५७. ई मेल - info@sra.gov.in

अ. क्र.	प्रकार	जमिन मालकी	सन २०१७ मध्ये झो.पु.प्रा.मार्फत आरायपत्र निर्गमित करण्यात आलेल्या झोपडपट्टी पुनर्वसन योजनांची संख्या	सन २०१८ मध्ये झो.पु.प्रा.मार्फत आरायपत्र निर्गमित करण्यात आलेल्या झोपडपट्टी पुनर्वसन योजनांची संख्या	सन २०१७-२०१८ मध्ये आरायपत्र निर्गमित करण्यात आलेल्या एकूण योजना	योजनेतील मंजूर पुनर्वसन सदिकांची संख्या	टक्केवारी
७	खाजगी + सरकारी	सरकारी + खाजगी	१	२	३	४०२	२.०%
८		म्हाडा + खाजगी	२	०	२		
एकूण			४७	३५	८२	२३५६९	१००%

Handwritten signature

जि.अ.प्र.सं.
झो.पु.प्रा.

Handwritten signature
(दीपक कपूर) भा.प्र.सं.
मुख्य कार्यकारी अधिकारी,
झोपडपट्टी पुनर्वसन प्राधिकरण.

नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक

महाराष्ट्र राज्य, पुणे.

नवीन प्रशासकीय इमारत, तळमजला, विधानभवन समोर, पुणे 411001.

फोन नं. (020) 26124012

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जा.क्र. सहसंचा-मू/पु/MCHI-CREDAI/ 72

दि. 23/01/2019.

प्रति,

मा. मुख्य कार्यकारी अधिकारी,
झोपडपट्टी पुनर्वसन प्राधिकरण,
मुंबई.

विषय :- झोपडपट्टी पुनर्वसन योजना कार्यान्वित करण्यासाठी गलिच्छ वस्ती खालील
खाजगी जमिनीच्या व्यवहारासाठी तयार करण्यात येणाऱ्या दस्तांसाठी सवलतीच्या
दराने मुद्रांक शुल्क आकरण्याबाबत.

महोदय,

उपरोक्त विषयाबाबत MCHI-CREDAI मुंबई यांनी या कार्यालयास वेळोवेळी पत्रव्यवहार करून,
खाजगी जमिनीवरील गलिच्छ वस्ती खालील जमिनीच्या व्यवहारासाठी सवलतीच्या दराने मुद्रांक शुल्क
आकारणीबाबत विनंती केली आहे. त्याअनुषंगाने MCHI-CREDAI चे पदाधिकार्यांसोबत मुंबई येथे
दि. 11/01/2019 रोजी बैठक आयोजित केली होती. त्यावेळी प्रामुख्याने सर्व पदाधिकार्यांनी असे नमूद केले
की, गलिच्छ वस्तीखालील खाजगी जमिनीचे खरेदी-विक्री व्यवहार न झाल्यामुळे झोपडपट्टी पुनर्वसन योजनेस
गती मिळत नाही व मागील काही वर्षात जं काही झोपडपट्टी पुनर्वसन प्रकल्प मंजूर झाले आहेत ते केवळ
शासनाच्या जागेवर झाले आहेत. त्याअनुषंगाने योग्य तो धोरणात्मक निर्णय घेण्यासाठी सन 2000 पासून
झोपडपट्टी पुनर्वसन मंजूर प्रकल्पांची वर्षनिहाय खालील माहिती या कार्यालयास आवश्यक आहे.

अ.क्र.	वर्ष	मंजूर झोपडपट्टी पुनर्वसन प्रकल्पांची संख्या	
		शासकीय जागेवरील	खाजगी जागेवरील

आपला,

नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक
महाराष्ट्र राज्य, पुणे.