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Ref. No. MCHI/PRES/18-19/155

February 19, 2019

To,

1. **Shri. Sanjay Kumar (I.A.S.)**
Additional Chief Secretary
Department of Housing,
Government of Maharashtra,
3rd Floor, Mantralaya,
Mumbai - 400 032

2. **Shri Deepak Kapoor (I.A.S.)**
Chief Executive Officer
Slum Rehabilitation Authority
Bandra (E),
Mumbai - 400051

लिपिक
28/2/19
श.मु.स. (गृहनिर्माण) यांचे कार्यालय



Sub: Request for considering the Lease Deed of Free Sale Component in SRA project.

Ref: (i) Maharashtra Act No. XXXVIII of 2018, dtd. 26th April 2018 amending the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971
(ii) RERA Act 2016

Respected Sirs,

The object of this representation is to highlight the recent amendments to the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 ("Slum Act") and certain decisions/notifications/circulars issued by the Slum Rehabilitation Authority ("SRA") in relation to grant of leases of free sale component lands in slum rehabilitation schemes and the adverse effect to purchasers in premises in free sale component and the inconsistencies of such amended provisions with the provisions of the central Real Estate (Regulation and Development) Act, 2016 ("RERA").

For the slum rehabilitation schemes in the city of Mumbai, it has been the practice of the State Government and SRA that as and when a proportionate rehabilitation area has been completed and handed over, the SRA would grant permissions including occupancy certificates in respect of corresponding proportionate free sale premises. In addition, the SRA would also ensure that within thirty (30) days of completion of the rehabilitation component of a slum rehabilitation scheme implemented on government land, such land would vest in the SRA and thereafter the SRA would grant leases of the proportionate free sale land to the co-operative societies formed of flat and premises purchasers. Such lease would be for a period of thirty (30) years and renewable for a further period of thirty (30) years.

The above position and process was very clear and was in the interest and to the benefit of allottees and purchasers of flats and premises, as they would obtain

title immediately after proportionate rehabilitation component being completed and building permissions being issued.

In view of the recent amendments to Section 15(A) of the Slum Act dated 26th April, 2018, the vesting of land in the SRA, which belongs to the State Government or any public authority will be thirty (30) days from completion of the slum rehabilitation scheme and only thereafter will the title be passed by lease to the developer or the entity, or organisation, co-operative societies, etc. formed of allottees and purchasers of flats and premises. Such amendment postpones the title to the free sale component till the very end of the slum rehabilitation scheme, thereby exposing and prejudicing all flat and premises purchasers to an indefinite wait for title to the land upon which the free sale buildings have been constructed. In addition, the amendment also exposes all free sale flat purchasers and allottees to the risk of any delay on grounds of any disputes or litigation arising in respect of the slum rehabilitation scheme although the proportionate rehabilitation component has already been completed and handed over. Therefore, effectively even as the developer has been compliant and has completed certain rehabilitation component, flat allottees and purchasers are being put to risk for no reason. **Copy of Section 15 (A)**, prior to the amendment and the Amendment dated 26th April, 2018 to the Slum Act is reproduced as hereto, *"In section 15A of the principal Act, for sub-sections (1) and (2) from the Slum Rehabilitation Authority, a compensation as determined under section 17."* (Copy of the Notification attached herewith)

The earlier practice of proportionately granting permissions including occupation certificates and issuing leases was just, equitable and fair and protected free sale flat allottees and purchasers. In addition, even if there had been some future default in completing rehabilitation component, the government, SRA and slum dwellers were well protected as the corresponding proportionate free sale component would not be granted permissions or leases. Therefore, the Developer would be penalised in respect of subsequent phases but flat purchasers and allottees would not be penalised. Thus the amendment to the Slum Act as above is unjust, unfair and unnecessary.

Further, the amendment to the Slum Act as above is also in direct breach and contravention of RERA. As RERA is a central act and as per Section 89, the provisions of RERA will take precedence over any other inconsistent law and it statutorily protects the allottees or association of allottees by stipulating that title in favour of the allottee, or association of allottees has to be granted within three (3) months from the date of issuance of occupancy certificate, in the absence of any local law. Thus flat and premises purchasers cannot be penalised by virtue of the aforesaid amendments to the Slum Act. Further, it is apparent that the amendment to Section 15(A) of the Slum Act directly conflicts with the provisions of RERA as it indefinitely defers title being passed to the flat purchasers or societies formed of such flat purchasers. **Copy of Section 89 of RERA** can be read hereto, *"Act to have overriding effect: The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force."*

We request that as per Section 17 of RERA, in the absence of any local law, conveyance deed in favour of the allottee or the association of the allottees or the competent authority, as the case may be, under this section shall be carried

out by the promoter within three months from date of issue of occupancy certificate and in the event of contravention of this provision, the Promoter shall be liable to a penalty which may extend up to five per cent. of the estimated cost of the real estate project as determined by the RERA Authority. Thus in view of the amendment as above, the Promoter is also at risk of attracting the penalty under RERA for no fault of his. **Copy of Section 17 and 61 of RERA** can be read hereto, *"17. Transfer of Title: The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate..... as the case may be, within thirty days after obtaining the occupancy certificate. And Section 61: Penalty for contravention of other provisions of this Act: If any promoter contravenes any other provisions of this Act..... real estate project as determined by the Authority."*

In view of the above, we humbly submit that not only the amendment to the Slum Act is arbitrarily and prejudicial to the interest of flat and premises purchasers and the Promoter but is also contrary to the provisions of RERA and therefore such amendments are unenforceable and cannot supersede the provisions of RERA. RERA, in fact supersedes the provisions of the Slum Act in relation to the obligation to grant possession and give title to flat and premises purchasers and allottees.

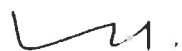
We submit the above position and the amendments made to the Slum Act which are contrary to RERA and which will only prejudice innocent flats allottees and purchasers where it will be appreciated that the SRA had enough power and security under the prior regime where it would proportionately release permissions including occupancy certificates and proportionately grant leases based on the completion of the proportionate rehabilitation component.

We believe that a positive decision with respect to the above expeditiously so that this conflict of laws and prejudice being caused to innocent flat allottees and purchasers, is avoided.

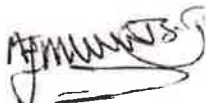
If any further clarification is required, CREDAI-MCHI shall be pleased to clarify the same.

Thanking you,

Your sincerely,
For CREDAI-MCHI



Nayan A. Shah
President



Bandish Ajmera
Hon. Secretary



Sanjiv S. Chaudhary MRICS
Chief Operating Officer

Encl : Copy of the Notification attached herewith



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ४, अंक ३४(३)]

गुरुवार, एप्रिल २६, २०१८/वैशाख ६, शके १९४०

[पृष्ठे ११, किंमत : रुपये २७.००

असाधारण क्रमांक ७५

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) (Amendment) Act, 2017 (Mah. Act No. XXXVIII of 2018), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

RAJENDRA G. BHAGWAT,
I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XXXVIII OF 2018.

(First published, after having received the assent of the President in the "Maharashtra Government Gazette", on the 26th April 2018.)

An Act further to amend the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.

Mah. XXVIII of 1971. WHEREAS, it is expedient further to amend the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971, for the purposes hereinafter appearing ; it is hereby enacted in the Sixty-eighth Year of the Republic of India as follows:-

1. This Act may be called the Maharashtra Slum Areas (Improvement, Short title Clearance and Redevelopment) (Amendment) Act, 2017.

Amendment
of section 2 of
Mah. XXVIII
of 1971.

2. In section 2 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (hereinafter referred to as "the principal Act"),-

Mah.
XXVIII
of 1971.

(1) after clause (a-a), the following clause shall be inserted, namely:-

"(a-b) "approved valuer" means any agency entrusted with the work of valuation of land and buildings constructed or under construction on it, having valid registration and empanelment with any public authority or agency, either of the Central Government or of the State Government;"

(2) for clause (b), the following clause shall be substituted, namely:-

"(b) "building" includes a house, dwelling structure, out house, stable, shed, hut and other enclosure or structure, attached to the earth, whether made of masonry, bricks, wood, mud, metal or any other material whatsoever, whether used as human dwelling or otherwise; and includes *verandahs*, fixed platforms, plinths, door-steps, electric meters, walls including compound walls and fencing and the like and also includes structures within community economic activity area adjoining to the building but does not includes plant and machinery, temporary partitions or any other moveable fixtures in a building;"

(3) after clause (b), the following clause shall be inserted, namely:-

"(1b) "Censused Slum" means any cluster of dwelling structures which has been censused, surveyed and enumerated and incorporated in the records of land owning authority as having been censused by the Collector or Competent Authority or any other person of a Planning Authority or Special Planning Authority by order of the State Government or any authority empowered by order of the State Government;"

(4) after clause (b-1), the following clause shall be inserted, namely:-

"(b-2) "community economic activity area" shall means the land within or adjoining to any slum area or any Slum Rehabilitation Area used by the occupant of slum dwellers for traditional occupation (which may include wooden boxes, stalls, washing stones, temporary platform, poles, *rassis* (ropes), nets, drying area) using traditional community skills for livelihood occupation which shall be recognised through license, permits or sanad, *etc.*, issued by the State Government or any of its public authority or agency;"

(5) for clauses (c-a) and (c-b), the following clauses shall be substituted, namely:-

"(c-a)"developer" means such agency as may be appointed or registered under section 3B by the Chief Executive Officer of the Slum Rehabilitation Authority to implement the Slum Rehabilitation Scheme;

"(c-b) "eligible slum dwellers" means the protected occupiers who fulfils such criteria as may be prescribed, by the State Government to be entitled for rehabilitation or relocation;"

(6) for clauses (h), (h-a) and (h-b), the following clauses shall be substituted, namely:-

"(h) "slum clearance" means clearance of any slum area or Slum Rehabilitation Area by demolition and removal of existing buildings

or dwelling structures and eviction of its occupiers therefrom by order of the Competent Authority or Chief Executive Officer, as the case may be;

(h-a) "slumlord" means any person, group of persons, associates or agency or *imlamalik* by whatever name known and notwithstanding any rights claimed by entries in land records, who illegally remains in possession of any land, whether belonging to the State Government, local authority or public authority or any other person or enters into or creates illegal tenancies or leave and license agreements or any other agreements in respect of such land or, who constructs unauthorized structures thereon for sale or hire or, gives such land to any persons on rental or leave and license basis for construction, use or occupation of unauthorized structures, or who knowingly gives financial aid to any persons for taking illegal possession of such land, or for construction of unauthorized structure thereon, or who collects or attempts to collect from any occupiers of such land rent, compensation or other charges by criminal intimidation, or who evicts or attempts to evict any such occupiers by force without resorting to the lawful procedure, or who abets in any manner the doing of any of the abovementioned things;

(h-b) "Slum Rehabilitation Area" means a Slum Rehabilitation Area, including community economic activity area, declared as such under sub-section (1) of section 3C by the Competent Authority or the Chief Executive Officer, as the case may be, in pursuance of the Slum Rehabilitation Scheme notified under section 3B;".

3. For section 3B of the principal Act, the following section shall be substituted, namely:-

Substitution
of section 3B
of Mah.
XXVIII of
1971.

"3B.(1) The Slum Rehabilitation Authority concerned, with the previous sanction of the State Government, shall prepare or amend the general Slum Rehabilitation Scheme for the areas specified under sub-section (1) of section 3A, for rehabilitation or relocation of protected occupiers and other occupiers of the building in such areas.

Slum
Rehabilitation
Scheme.

(2) The general Slum Rehabilitation Scheme prepared or any amendment to it under sub-section (1), shall be published in the *Official Gazette*, by the concerned Slum Rehabilitation Authority, as draft general Slum Rehabilitation Scheme or draft amendment to general Slum Rehabilitation Scheme, for the area specified under sub-section (1) of section 3A, for the information of general public, inviting objections and suggestions, giving reasonable period of not less than thirty-days but not more than forty-five days, for submission of objections and suggestions, if any, in respect of the Scheme.

(3) The Chief Executive Officer of the concerned Slum Rehabilitation Authority shall, within sixty days consider the objections and suggestions, if any, received within the specified period in respect of the said draft general Slum Rehabilitation Scheme or any draft amendment to the general Slum Rehabilitation Scheme and after considering the same and after carrying out such modifications as deemed fit or necessary, finally publish the said the general Slum Rehabilitation

Scheme or such amendment to it, with the approval of the State Government, in the *Official Gazette*.

(4) The general Slum Rehabilitation Scheme published under sub-section (3) shall be deemed Development Control Regulations under the provisions of Chapter III of the Maharashtra Regional and Town Planning Act, 1966, for the said area and the provisions of the general Slum Rehabilitation Scheme shall prevail over the Development Control Regulations, published under the Maharashtra Regional and Town Planning Act, 1966.

Mah.
XXXVII
of 1966.

Mah.
XXXVII
of 1966.

(5) The Slum Rehabilitation Scheme so notified under sub-section (3) shall, generally lay down the parameters for declaration of any land as the Slum Rehabilitation Area and indicate the manner in which the rehabilitation of the occupants of the area declared as Slum Rehabilitation Area shall be carried out. In particular, it shall provide for all or any of the following matters, that is to say,-

(a) the parameters or guidelines for declaration of land as the Slum Rehabilitation Area;

(b) basic and essential parameters of development of Slum Rehabilitation Area under the Slum Rehabilitation Scheme;

(c) provisions for obligatory participation of the owners, landholders and occupants of the land declared as the Slum Rehabilitation Area under the approved Slum Rehabilitation Scheme in the implementation of such Scheme;

(d) provision relating to transit accommodation or entitlement of compensation in lieu of transit accommodation to the slum dwellers pending development of the Slum Rehabilitation Area;

(e) provision relating to allotment of tenements either *in-situ* or otherwise, on development free of cost to the protected occupiers of the building in such Slum Rehabilitation Area;

(f) provision relating to allotment of tenements either *in-situ* or otherwise, on ownership or on rent, to the other non-protected occupiers up to the 1st January 2011, subject to the availability of tenements as per the terms and conditions and guidelines so notified in the *Official Gazette*, by the Chief Executive Officer with the prior approval of the State Government;

(g) scheme for development of the Slum Rehabilitation Areas under the Slum Rehabilitation Scheme by the landholders and occupants by themselves or through a developer and the terms and conditions of such developments; and the option available to the Slum Rehabilitation Authority for taking up such development in the event of non-participation of the landholders or occupants;

(h) provision regarding sanction of Floor Space Index and transfer of development rights, if any, to be made available to the developer for development of the Slum Rehabilitation Area under the Slum Rehabilitation Scheme;

(i) provision regarding non-transferable nature of tenements for a certain period, etc.

(6) The Chief Executive Officer of the Slum Rehabilitation Authority, with prior approval of the State Government shall, regulate the procedure for appointment and registration of developers for

9 of
1932.
18 of
2013.

implementation of the Slum Rehabilitation Scheme as per the rules prescribed by the State Government, from time to time. The Chief Executive Officer or the Slum Rehabilitation Authority, as the case may be, may register any person or an association of persons registered under the Partnership Act, 1932 or a company registered under the Companies Act, 2013, as a developer in the prescribed manner for the implementation of Slum Rehabilitation Scheme."

4. In section 3C of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:-

Amendment
of section 3C
of Mah.
XXVIII of
1971.

"(1) As soon as may be, after the publication of any Slum Rehabilitation Scheme, the Chief Executive Officer on being satisfied about the circumstances in respect of any land, whether or not previously declared as slum area, justifying its declaration as the Slum Rehabilitation Area which may include community economic activity area, for implementing the Slum Rehabilitation Scheme, shall after giving the land owners, including any public authorities or local bodies under the State Government constituted under any law enacted by the State Legislature, thirty days notice and after giving a reasonable opportunity of being heard, by an order published in the *Official Gazette*, and thereafter within forty-five days, declare such land to be a "Slum Rehabilitation Area". The order declaring the Slum Rehabilitation Area (hereinafter referred to as "the slum rehabilitation order"), shall also be given wide publicity in such manner as may be specified by the Chief Executive Officer of the Slum Rehabilitation Authority. Thereafter, notwithstanding anything contained in any law for the time being in force, in such Slum Rehabilitation Area, the permission or the No Objection Certificate of the land owning authority or agency shall not be required:

Provided that, only in respect of any land which is required for Vital Public Project purpose, as per orders of the State Government and where the State Government either directly or through any public authority has undertaken the responsibility of relocation and rehabilitation of the protected and other occupiers of the building, then the Chief Executive Officer shall, exclude the land required for Vital Public Project from the Slum Rehabilitation Area and issue an order to omit such land from the Slum Rehabilitation Area. Where the State Government either directly or through any public authority has undertaken the responsibility of relocation and rehabilitation of the protected and other occupiers of the building, such public authority shall prepare the Scheme of such rehabilitation or relocation and get it approved by the Chief Executive Officer within the period specified in the Scheme which shall not be more than ninety days.

(2) Any person aggrieved by the order of the Chief Executive Officer may, within thirty days of the publication of such slum rehabilitation order, prefer an appeal to the Grievance Redressal Committee. The decision of the Grievance Redressal Committee in such appeal shall be final."

5. In section 3D of the principal Act,-

Amendment
of section 3D
of Mah.
XXVIII of
1971.

(1) in clause (b),-

(a) in sub-clause (ii),-

(i) for paragraph (A), the following paragraph shall be substituted, namely:-

"(A) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) As soon as may be, after the Chief Executive Officer has declared any land to be a Slum Rehabilitation Area, and upon

approval of the Slum Rehabilitation Scheme, he shall as early as possible proceed to make a clearance order in relation to that within fifty days land, order for the demolition of each building specified therein, and require each such building to be vacated by its occupier within such time which shall not be less than thirty days, but in any case not more than sixty days, as may be specified in such clearance order.";"

(ii) for paragraph (C), the following paragraph shall be substituted, namely:-

"(C) for sub-section (4), the following sub-section shall be substituted, namely:-

"(4) Any person aggrieved by the clearance order may, within thirty days of the publication of the notice of the confirmation of the clearance order prefer an appeal to the Grievance Redressal Committee. The decision of the Grievance Redressal Committee in such appeal shall be final.";"

(iii) for paragraph (D), the following paragraph shall be substituted, namely:-

"(D) for sub-section (5), the following sub-section shall be substituted, namely:-

"(5) Where any such appeal is duly made,-

(a) the Grievance Redressal Committee may, by interim order, suspend the operation of the clearance order either generally, or in so far as it affects any property, until the final determination of the appeal;

(b) the Grievance Redressal Committee if satisfied upon hearing of the appeal that the clearance order is not within the powers of this Act, or that the interest of the appellant have been substantially prejudiced, by any requirement of this Act not having been complied with, may quash the clearance order either generally, or in so far as it affects any property of the appellant;

(c) the decision of the Grievance Redressal Committee in such appeal regarding such declaration and execution of clearance order shall be final.";"

(iv) for paragraph (E), the following paragraph shall be substituted, namely:-

"(E) for sub-sections (6) and (7), the following sub-sections shall be substituted, namely:-

"(6) Subject to the provisions of the last preceding sub-section, the clearance order shall become operative at the expiration of time limit specified by the Chief Executive Officer in the clearance order issued under sub-section (1) from the date on which the notice of confirmation of the clearance order is published in accordance with the provisions of this Act.

(7) When the clearance order becomes operative, the owners of building to which the clearance order applies shall, demolish the building before the expiration of time limit specified by the Chief Executive Officer in the clearance order, issued under sub-section (1) from the date on which the building is required by the clearance order to be vacated, or before the expiration of such longer period as in the circumstances of the case, the Chief Executive Officer may deem reasonable.";"

(v) for paragraph (F), the following paragraph shall be substituted, namely:-

"(F) for sub-section (8), the following sub-section shall be substituted, namely:-

"(8) If the building is not demolished before the expiration of the period mentioned in the sub-section (7), the Chief Executive Officer may enter and demolish the building and sell the material thereof."; "

(vi) for paragraph (H), the following paragraph shall be substituted, namely:-

"(H) for sub-section (10), the following sub-section shall be substituted, namely:-

"(10) Subject to the provisions of this Act and of any other law for the time being in force, in relation to the town planning and to the regulation of the erection of building, where a clearance order has become operative, the owner of the land to which the clearance order applies, may redevelop the land in accordance with the plans approved by the Slum Rehabilitation Authority and subject to such restrictions and conditions (including a condition with regard to the time specified in the general Slum Rehabilitation Scheme, within which the redevelopment shall be completed), if any, as that Authority may think fit to impose:

Provided that, the owner who is aggrieved by a restriction or condition so imposed on the user of his land, or by a subsequent refusal of the Chief Executive Officer to cancel or modify any such restriction or condition may, appeal to the Grievance Redressal Committee and the decision of the Grievance Redressal Committee regarding restriction and condition imposed shall be final.";

(b) for sub-clause (iii), the following sub-clause shall be substituted, namely:-

"(iii) for section 13, the following section shall be substituted, namely:-

"13. (1) Notwithstanding anything contained in sub-section (10) of section 12, the Chief Executive Officer shall, after any land has been declared as the Slum Rehabilitation Area, including community economic activity area, if the owners, landholders or occupants of such land do not come forward within a reasonable time, which shall not be more than one hundred and twenty days, required for relocation and rehabilitation of protected and other occupiers justifying with the Slum Rehabilitation Scheme for redevelopment of such land, by order, determine to redevelop such land by entrusting into any agency or other developer for the purpose.

Power of Slum Rehabilitation Authority to develop Slum Rehabilitation Area.

(2) Where on declaration of any land as Slum Rehabilitation Area, the Chief Executive Officer is satisfied that, the land in the Slum Rehabilitation Area has been or is being developed by the owners, landholders or occupants or developers in contravention of the plans duly approved, or any restrictions or conditions imposed under sub-section (10) of section 12, or in contravention of any provision of any Slum Rehabilitation Scheme or any condition specified in the approval or has not been developed within the time, as specified under such conditions of approval, he may, by order, determine to develop the land declared as Slum Rehabilitation Area by entrusting it to any agency or the other developer recognized by him for the purpose.

(3) The agency or the other developer so appointed shall within a period of forty-five days of the order of the Chief Executive Officer, be required to deposit an amount of compensation payable to the outgoing landowners or occupants or developers, as the case may be, for expenditure incurred by them on payment made to any public authority, local bodies for receiving approvals for the Slum Rehabilitation Scheme and construction of rehabilitation tenements as determined by the Chief Executive Officer:

Provided that, such compensation shall not be payable by the agency appointed by the Chief Executive Officer, for any expenditure incurred towards construction to meet conditional obligations made to any third party by the landowners or occupants or previous developers, as the case may be. The Chief Executive Officer before passing such order shall obtain report from approved valuer independently appointed on his behalf and by the concerned parties to the proceeding before the Chief Executive Officer:

Provided further that, before passing such order by the Chief Executive Officer, the concerned landowner or occupant or developer, as the case may be, shall be given a reasonable opportunity of being heard and time which shall not be more than thirty days of showing cause why the order should not be passed:

Provided also that, an appeal, if any, against the order of the Chief Executive Officer shall be filed before the Grievance Redressal Committee and order of the Grievance Redressal Committee shall be final and binding on all the parties.";"

(2) in clause (e),-

(a) after sub-clause (i), the following sub-clause shall be inserted, namely :-

"(i-a) for section 33, the following section shall be substituted, namely:-

Power of
eviction to be
exercised by
Chief
Executive
Officer.

"33. Where the Chief Executive Officer is satisfied either upon a representation from the owner of a building or from the developer or the Co-operative Society of the Slum Rehabilitation Scheme in the Slum Rehabilitation Area or, upon other information in possession that the occupants of the building have not vacated it in pursuance of any slum clearance order under section 12 or direction issued or given by him or the tenements constructed in Slum Rehabilitation Area are occupied without the permission or allotment by him or tenements are occupied without Occupation Certificate, he shall, by order, direct the eviction of the occupants from such building in such manner and within such time which is not more than thirty days as may be specified in the order, and for the purpose of such eviction, may use or cause to be used such force as may be necessary:

Provided that, the Chief Executive Officer shall exercise his powers under this section only in respect of the Slum Rehabilitation Area on which Slum Rehabilitation Scheme has been approved by him:

Provided further that, before making any order under this section, the Chief Executive Officer shall give a reasonable opportunity of being heard within such time which is not more than

thirty days, as may be specified in the order, to the owners or occupants of the buildings, to show cause why they should not be evicted therefrom.";

(b) for sub-clause (v), the following sub-clause shall be substituted, namely:-

"(v) for section 38, the following section shall be substituted, namely:-

"38. (1) Where the erection of any building has been commenced, or is being carried out, or has been completed, in contravention of any restriction or condition imposed under sub-section (10) of section 12, or a plan for the redevelopment of any Slum Rehabilitation Area or in contravention of any notice, order or direction issued or given under this Act, the Chief Executive Officer may, in addition to any other remedy that may be resorted to under this Act or under any other law, make an order directing that such erection shall be demolished by the owner or by the developer or by the occupant, as the case may be, thereof within such time not exceeding thirty days as may be specified in the order, and on the failure of the owner or the developer or the occupant, as the case may be, to comply with the order, the building so erected shall be liable for forfeiture or for summary demolition by an order of the Chief Executive Officer and the expenses of such demolition shall be recoverable from the owner as arrears of land revenue :

Order of demolition of building in certain areas.

Provided that, no such order shall be made unless the owner or the occupant, as the case may be, has been given a reasonable opportunity of being heard.

(2) The forfeiture under this section be adjudged by the Chief Executive Officer and any property so forfeited shall be disposed of as the Chief Executive Officer may direct; and the cost of removal of the property under this section shall be recoverable as arrears of land revenue.

(3) For the purpose of causing any building to be demolished under sub-section (1), the Chief Executive Officer use or cause to be used such force as may be necessary:

Provided that, the Chief Executive Officer shall exercise his powers under sub-section (1), (2) and (3) above only in respect of the Slum Rehabilitation Area on which the Slum Rehabilitation Scheme has been approved by him.";

(c) in sub-clause (xii), in section 47, for the words "any area" the words "any land" shall be substituted.

6. In section 3I of the principal Act,-

(1) for sub-section (1), the following sub-section shall be substituted, namely:-

Amendment of section 3I of Mah. XXVIII of 1971.

"(1) The State Government or the Slum Rehabilitation Authority may appoint such officers and servants subordinate to the Chief Executive Officer as it considers necessary for the efficient performance of its duties and functions.";

(2) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) The conditions of appointment and service of officers and servants shall be such as may be laid down from time to time, by service rules or by regulations, as the case may be."

Amendment
of section 3X
of Mah.
XXVIII of
1971.

7. In section 3X of the principal Act, for clause (a), the following clause shall be substituted, namely:-

"(a) "dwelling structure" means a structure used as dwelling or otherwise and include out-house, shed, hut, other enclosure or structure attached to the earth including community economic activity area within or adjoining to it, whether of bricks, masonry, wood, mud, metal or any other material whatsoever;"

Amendment
of section 15A
of Mah.
XXVIII of
1971.

8. In section 15A of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:-

"(1) Notwithstanding anything contained in this Act or any other law or regulation for the time being in force, relating to transfer of land and property of the State Government or any public authority of State Government, constituted under any law enacted by the State Legislature, on completion of the Slum Rehabilitation Scheme implemented on the plot of land belonging to the State Government or such public authority, as the case may be, duly sanctioned by the Slum Rehabilitation Authority, within thirty days from the completion of the Slum Rehabilitation Scheme, the State Government or the Chief Executive Officer, with the prior approval of State Government may, declare by notification in the *Official Gazette*, that such land so declared as the Slum Rehabilitation Area shall vest in Slum Rehabilitation Authority:

Provided that, such notification shall be published only after the Slum Rehabilitation Authority has paid compensation to the concerned public authority, urban local body or planning authority, as the case may be, admissible for the land acquisition under section 17.

(2) The State Government, or urban local body or planning authority or any public authority of the State Government established under any law enacted by the State Legislature in respect of the Slum Rehabilitation Scheme under sub-section (1), shall be entitled to receive from the Slum Rehabilitation Authority, a compensation as determined under section 17."

Amendment
of section 33A
of Mah.
XXVIII of
1971.

9. In section 33A of the principal Act, for clause (c), the following clause shall be substituted, namely:-

"(c) communicate to such slum dwellers that the transit tenement of minimum 120 square feet would be allotted to them or the amount of rent fixed by the Slum Rehabilitation Authority;"

Amendment
of section 35
of Mah.
XXVIII of
1971.

10. In section 35 of the principal Act,-

(1) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) Except as otherwise expressly provided in this Act, any person aggrieved by any notice, order or direction issued or given by the Competent Authority, may appeal to the Appellate Authority, who shall be a person holding a post not below the rank of Additional Collector, in respect of the areas of Municipal Corporations and "A" Class Municipal Councils, and not below the rank of Deputy Collector, in respect of areas of other Municipal Councils, to be notified by the State Government, within a period of thirty days from the date of issue of such notice, order or direction.";

(2) in sub-section (1A), for clause (b), the following clause shall be substituted, namely:-

"(b) for the purpose of resolving any dispute in relation to matters regarding the declaration of Slum Rehabilitation Area under section 3C and order of slum clearance under section 12 or order under section 13 against the owner or developer not undertaking and completing the project as per the permission and approval so also within the stipulated time frame or order regarding eviction of the slum dweller from Slum Rehabilitation Area under section 3D, by the Chief Executive Officer and about eligibility of slum dweller, eligible slum dweller being denied tenement, transit accommodation being unavailable or not provided and likewise;"

(3) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) Any appeal shall not operate as a stay order appealed from except so far as the Appellate Authority may grant by reasoned order, nor shall execution of any order be stayed by reason only of an appeal having been preferred from, but the Appellate Authority may for sufficient cause order stay of execution of such order and if the notice, order or direction against which appeal is made and is set aside by Appellate Authority on an appeal disobedience thereto shall not be deemed to be an offence."