



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4225 of 2024

AND

INTERIM APPLICATION NO.6016 OF 2025

Chetan Samajik Pratishthan & Anr.

...Petitioners.

VS

The Municipal Corporation of Gr. Mumbai & Anr.

...Respondents

And

Suryoday Co-op. Housing Society

...Applicant

Mr. Pradeep Thorat with Mr. Ashish Gatagat with Shafi Shaikh and Mr. A.S. Shaikh, for Applicant.

Ms. Pushpa Yadav, for Respondent-BMC.

Mr. Jagdish Aradwad (Reddy), for Respondent No.3/SRA.

Mr. Sanjeev B. Deore with Mr. Arman Ansari & Rutuja Gholap i/b. Suchita Pawar, for Respondent No.1/Orig. Petitioner.

**CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.**

DATE: 3 February 2026.

ORAL ORDER: (Per G. S. Kulkarni , J.)

1. In regard to an extraordinarily large slum rehabilitation at Buddha Nagar, Govandi, Mumbai which is on the municipal land, the petitioners have brought to the fore an important issue, namely, of total dereliction of the duties and obligations by the officers of the Municipal Corporation of Greater Mumbai (MCGM), as also the Slum Rehabilitation Authority (for short "SRA"), in failing to provide the basic sanitation facilities of toilet blocks, as also in not maintaining and repairing the existing toilet blocks, which are stated to be in dilapidated condition.

2. Learned Counsel for the petitioner has submitted that the slum in question is situated on a large area of land belonging to the MCGM admeasuring about 1,83,000 sq. meters, having more than 4000 residents, who are residing in the hutments constructed on the municipal land. Also, there are commercial structures set up by the encroachers.

3. Our attention is drawn to a work order dated 9 July 2019 (Exhibit D) issued to one M/s. Riddhi Enterprises awarding the work of construction of these toilets, being awarded under the Slum Sanitation Programme. The grievance of the petitioner is of the dismal state of such toilets. The toilets of which the photographs are placed on record, are in a ruinous condition, pathetically maintained in regard to their cleanliness and hygiene. No repairs are being undertaken by the municipal corporation. The reason *inter alia* being that part of the land admeasuring 1449.15 sq. meter is the subject matter of a slum rehabilitation scheme for which a Letter of Intent was issued by the SRA dated 13 October 2020, in favour of respondent no. 4-Buddha Prarthana Relators Pvt Ltd., appointed by one Survodaya SRA Co-op. Housing Society formed by the slum dwellers of about 60 hutments. Such slum scheme is stated to be for rehabilitation of only 36 eligible rehabilitation residential slum dwellers, out of which two are provisional residential rehabilitation, fourteen are eligible for commercial rehabilitation and six are for provisional commercial rehabilitation as set out in Exhibit R-1 of the affidavit filed on behalf of the SRA of Shri. G. B. Gagare, Executive Engineer.

4. Thus, the case of the petitioners is that apart from such Letter of Intent

issued by the SRA, presently, the remaining area of Buddha Nagar is not the subject matter of any slum rehabilitation scheme on this land belonging to MCGM.

5. The petitioners raising such grievances addressed a letter dated 12 October 2022 to the Chief Executive Officer, SRA in regard to upkeepment and providing of the sanitary / toilet blocks requirements, essential for such large slums. In such letter, the petitioner categorically recorded that Buddha Nagar 2 has 376 hutments, Bhaiyasaheb nagar has 276 hutments and New Lumbini baug has 202 hutments, and that there are only 60 toilet blocks (seats) $(20+20+10+10 = 60)$ which are in dilapidated condition. It was stated that the population (residents) of these areas was about 4270 and despite such large slum population, only 60 toilet blocks (seats) were provided. It was further recorded that if any of these toilet blocks were demolished and constructed elsewhere, the occupants of the slum structures would not only be deprived of the toilet facilities but would be required to walk a long distance for the basic sanitary needs.

6. We find from the petition that the municipal corporation is arrayed as respondent No.1 and the Assistant Municipal Commissioner, M/East ward, Govandi (West), Mumbai, as respondent No.2; the Slum Rehabilitation Authority as respondent No.3 and Buddha Prarthana Realtors Pvt. Ltd. as respondent No.4 who is the developer who has been appointed in respect of the redevelopment on the land subject matter of LOI dated 13 October 2020 as noted by us hereinabove.

7. Having heard the learned Counsel for the parties and having perused the record, we find that the grievance of the petitioner certainly has substance.

8. Insofar as the redevelopment as undertaken by respondent No.4 – Buddha Prarthana Realtors Pvt. Ltd. is concerned, who is represented by learned Counsel Mr. Thorat, it appears that the redevelopment is in regard to slum tenements which are less than 60 in number. It is a small portion of the land as noted by us. However the other large portion of the slum land would certainly require the attention of the municipal corporation on all such issues as flagged by the petitioners. Although the area in question is a slum area on the municipal land, it cannot be that the municipal corporation neglects and not attend to such basic human needs of providing adequate sanitary / toilets facilities and fail in discharge of its obligation under the Mumbai Municipal Corporation Act, 1888 (for short ‘**MMC Act**’). The law in regard to the powers and authority of the municipal corporation qua the slum land, on such issues is well settled. In **High Court on its own motion in the matter of Jilani Building at Bhiwandi vs. Bhiwandi Nizampur Municipal Corporation & Ors.**¹ this Court has categorically held that even in regard to land/area which is declared as a slum, the municipal corporation would have an authority to discharge its public duties and obligations under the MMC Act, 1888. Thus, even in the area in question which is stated to be a slum area and more particularly when the entire land is belonging to the municipal corporation, the municipal corporation would be required to cater to all the basic requirements of not only providing adequate number of toilets

¹ 2022 SCC OnLine Bom 386

commensurate with the population of the area, but also maintain such toilets so that the hygiene and health of the slum dwellers is looked after. This applies to all the slums in Mumbai.

9. Further in the present facts, the Municipal Corporation neglecting its own land when it allows the formation of a slum itself is a serious matter, as such land is gone forever, from the pool of public lands. It cannot be that the existing toilets which were constructed by the Municipal Corporation are neglected and they are not maintained, and which have deteriorated and have become dilapidated by the passage of time. We find that these toilets were constructed under the funds made available by the Member of the Parliament. We also find that the area being a large slum area, a meagre 60 toilets being provided, by any standards is totally insufficient to cater to the needs of such large population of more than 4000.

10. In this view of the matter, we direct the Municipal Corporation to identify open areas in this large slum area of this municipal land and construct more toilets commensurate with the population/number of residents of the Slum area which be undertaken within two months from today.

11. Insofar as the existing toilets are concerned, we direct respondent No.2 to forthwith take steps to repair these toilets and also maintain the same and make them appropriate for the use of the slum dwellers.

12. In our opinion, making adequate provisions for toilets / sanitation facilities concerns the basic human rights under Article 21 of the Constitution, this notwithstanding the fact, that the area in question is a slum created by

encroachment on the land belonging to the municipal corporation. It can never be conceived that municipal officers do not safeguard the municipal land, and permit encroachment leading to the formation of a slum. Once a large population of encroachers, sets up residential and commercial settlements categorized as slums, it cannot be that the Municipal Corporation or the State Government would not recognize such slums, and neglect their obligation to provide the basic civic amenities, including sanitation and toilet facilities. It is clear from the statutory framework and public policies of the State Government that encroachers on public land, subject to the applicable cut off dates as prescribed by the State Government, become entitled to free of cost permanent alternate accommodation and/or subsidised tenements, rewarding such encroachments. Permanent alternate accommodation is ordinarily provided *in situ*, the consequence of which is that the land is forever lost to the Municipal Corporation/public, and becomes subject matter of compulsory construction of buildings for housing the slum-dwellers and a free sale building for sale of tenements in the open market, by the developer undertaking the slum redevelopment. Such land is hence available for commercial exploitation, as in the scheme the free slum component is constructed by private developers for whom the project constitutes a business venture undertaken for profit. All this occurs at the cost of the public exchequer and results in monumental and irreversible loss of public land, which otherwise could have been utilized for larger public purposes / benefits such as gardens, playgrounds, public amenities, government buildings etc. This is true in respect of large tracts of public lands

belonging to the State Government and the Municipal Corporation within the city of Mumbai, having already been lost from the pool of public lands, with no clarity as to whether any comprehensive measures were adopted to prevent such state of affairs or even whether any separate record of such lost lands is maintained by the State Government or the municipal corporation or similar public bodies under the State.

13. The fact however remains that those who construct slum structures cannot be deprived of basic and essential requirements including access to sanitation facilities. It does not appear to be a rule either of the Municipal Corporation or the State Government that encroachment upon public land recognizes an obligation of the slum dwellers to construct community toilets, failing which such encroachment would not be recognized. If there is no such policy, in our opinion, it becomes a matter of serious concern on the part of the State Government and the municipal authorities, when encroachments are permitted on public land, however, without a corresponding obligation on the encroachers to create toilet blocks along with such encroachments and leave this to be provided by the municipal corporation. Such is the state of affairs. Thus, in our opinion, in the absence of any such policy, it would be the obligation of the municipal corporation or the State Government under any scheme to provide for adequate number of toilet blocks in slum areas.

14. Thus, the Municipal Commissioner and the officers below him cannot neglect and / or breach such basic rights of the citizens, who are living in unhygienic conditions in the slums that too, proliferated on the municipal and

Government lands. We accordingly direct the Municipal Commissioner to not only provide appropriate toilet blocks but also upkeepment and maintenance of all the toilet blocks, on day to day basis, to be undertaken by the concerned Assistant Municipal Commissioner who should keep supervision/vigil and maintain a record of the cleanliness / hygiene as also of the appropriate state of repairs of the toilet blocks situated in the slum areas, in the city of Mumbai. This would be the basic municipal duty of the municipal corporation. Any breach of such obligations would breach the fundamental rights guaranteed under Article 14 and 21 of the Constitution.

15. It is also the duty of the Municipal Officers to cater and comply with the other health and hygiene requirements of slum areas so as to prevent spread of disease and infection. This duty includes providing facility of clean drinking water and medical assistance through clinics and dispensaries being set up in the slum areas to address the health and medical needs of slum dwellers. Such measures also constitute an entitlement of the slum dwellers, to a disease-free and healthy life, which is a concomitant of Article 21 of the Constitution.

16. Although we have passed the aforesaid direction, we clarify that insofar the land which is subject matter of development by respondent No.4 – developer under the LOI dated 13 October 2020 is concerned, with which as stated hereinabove, only 60 slum dwellers are concerned, would not be affected by our directions, for the reason that the said slum dwellers independently have not approached the Court or any authority with any grievance that in the redeveloped area any toilet be provided till the plot is redeveloped, which is

stated to have been now vacated, for the purposes of redevelopment. It would be the duty of the Municipal Corporation, as also the SRA to consider and address any grievances, if raised by such slum dwellers on non availability of toilet facilities, health and hygiene and provide adequate toilets.

17. Thus, if any of the toilet blocks situated insofar as LOI dated 13 October 2020 is concerned, the SRA and the Municipal Corporation shall take appropriate position in the event it is necessary that the toilet blocks are to be demolished, in that event, alternate land shall be identified and appropriate toilet blocks would be required to be provided. This more particularly as the area which is being developed by respondent No.4 is part and parcel of larger slum area. This shall be undertaken within a period of fifteen days from the date of any demolition.

18. Let these directions be strictly implemented in the timeline as directed by us.

19. Before parting, we may also observe, that the Supreme Court in **Rajeeb Kalita v. Union of India**² in dealing with the issue of availability of basic sanitation facility in public institutions, and in such context, considering the canvass of Article 21 of the Constitution and the purport of Article 25 of the Universal Declaration of Human Rights, recognized the right of every person to an adequate standard of living essential for health and well-being. It was held that this necessarily encompassed access to sanitation and hygienic living conditions as a requirement of the right to life guaranteed under Article 21 of the

² 2025 SCC OnLine SC 81

Constitution, which includes the right to live with dignity in a healthy and hygienic environment. The relevant observations as made by the Supreme Court which are apt in the facts of the present case, read thus:

“8.7. Universal Declaration of Human Rights, 1948 Article 25. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

... ..

8.24. Thus, the entire analysis makes it abundantly clear that public health is of paramount importance and clean public toilets contribute to the health and overall well-being of the society. Also, the right to safe and clean drinking water and sanitation is essential for the full enjoyment of life and all human rights. It is settled law that the right to life encompasses within it the right to healthy and hygienic life and the right to live with dignity. Creation of adequate public toilets also protects the privacy and removes the threat to ladies and transgender persons. Availability of access to public toilet is an important duty of the States/UTs under the Directive Principles and it is just not enough if such provisions are made but steps are to be taken to ensure that the toilets are maintained throughout the year.

... ..

10. In our opinion, toilets / washrooms / restrooms are not merely a matter of convenience, but a basic necessity which is a facet of human rights. Access to proper sanitation is recognized as a fundamental right under Article 21 of the Constitution, which guarantees the right to life and personal liberty. This right inherently includes ensuring a safe and hygienic environment for all individuals. There is a discernible duty on every State/UT under Part IV of the Constitution to ensure a healthy environment and to continuously strive of improving the public health.”

The aforesaid observations of the Supreme Court are aptly applicable in the facts of the present case.

20. With the aforesaid observations and directions, we dispose of this petition. No costs.

21. Pending Interim Application would not survive. It is accordingly disposed of.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)