



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No. _____ / 2025
(Arising out of Special Leave Petition (C) No. 19774 / 2018)**

Tarabai Nagar Co-Op. Hog. Society (Proposed)Appellant(s)

versus

The State of Maharashtra and othersRespondent(s)

with

**Civil Appeal No. _____ / 2025
(Arising out of Special Leave Petition (C) No. 25494 / 2018)**

The State of Maharashtra and anotherAppellant(s)

versus

Indian Cork Mills Private Limited and othersRespondent(s)

with

**Civil Appeal No. _____ / 2025
(Arising out of Special Leave Petition (C) No. 27497 / 2018)**

The Slum Rehabilitation AuthorityAppellant(s)

versus

The State of Maharashtra and othersRespondent(s)

JUDGEMENT

SURYA KANT, J.

Leave granted.

2. The dispute which falls for consideration in these Civil Appeals pertains to the validity of the acquisition of land bearing CTS Nos. 119 I and 119 I/1-83 in Village Tungwa, Taluka Kurla, Mumbai, admeasuring

9,054 sq. m. (**Subject Land**), under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (**Slums Act**). The High Court of Judicature at Bombay (**High Court**), *vide* the Impugned Judgements dated 13.06.2018 and 09.07.2018, has: (**i**) allowed the writ petition filed by the landowner; (**ii**) held the acquisition to be void; and (**iii**) directed the State of Maharashtra and the Slum Rehabilitation Authority (**SRA**) to invite the landowner and consider its proposal for redevelopment. The instant appeals have, thus, been preferred by the proposed housing society of slum dwellers, the State of Maharashtra, and the SRA.

A. LEGISLATIVE SCHEME

3. Before delving into the facts of this case, it may be prudent to first consider the legislative scheme of the Slums Act.
4. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 was originally enacted by the Maharashtra State Legislature as “[an] **Act to make better provision for the improvement and clearance of slum areas in the State and their redevelopment.**”

A.1 Original Framework for Slum Redevelopment (1971)

5. In its original form, the Slums Act provided a procedure for appointment of a Competent Authority (Section 3); declaration by the Competent Authority of certain slums as ‘Slum Areas’ (Chapter II); improvements to be conducted in such Slum Areas by the landowner or the Competent

Authority (Chapter III); clearing and redevelopment of the Slum Areas (Chapter IV); and the acquisition of land for such redevelopment (Chapter V).

6. Given the background of the instant appeals, it seems to us that, besides the definitions contained in Section 2 of the Slums Act, Chapters IV and V thereof also merit a more detailed consideration.
7. Section 2 contains the definitions of various terms and phrases used in the Slums Act:

“2. Definitions.— *In this Act, unless the context otherwise requires —*
[xxxx]

(d) *“land” includes building and also benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth;*

(e) *“occupier” includes,—*

(i) *any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;*

(ii) *an owner in occupation of, or otherwise using, his land or building;*

(iii) *a rent-free tenant of any land or building;*

(iv) *a licensee in occupation of any land or building; and*

(v) *any person who is liable to pay to the owner damages for the use and occupation of any land or building;*

(f) *“owner”, when used with reference to any building or land, means the person who receives or is entitled to receive the rent of the building or land, if the building or land were let, and includes,—*

(i) *an agent or trustee who receives such rent on account of the owner;*

(ii) *an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any building or land devoted to religious or charitable purpose;*

(iii) *a receiver, sequestrator or manager appointed by a court of competent jurisdiction to have the charge of or to exercise the rights of owner of the said building or land; and*

(iv) *a mortgagee-in-possession;*

but does not include, a slumlord;

[xxxx]

(h) *“slum clearance” means the clearance of any slum area by the demolition and removal of buildings therefrom;*

[xxxx]”

8. It may be noted that although the term 'landholder' is not expressly defined within the legislation, it is taken to mean all the persons who hold any interest in the land in question. This would, of course, include the owner(s) of the land, but it also covers other interest holders, such as mortgagees or assignees.
9. Chapter IV lays down the process whereby the Competent Authority can decide to clear a declared Slum Area, execute such a decision, and initiate the redevelopment of the area.
10. Section 11(1) allows the Competent Authority to declare a Slum Area as a Clearance Area, if it is satisfied "***that the most satisfactory method of dealing with the conditions in the area is the demolition of all the buildings in the area.***"
11. Following the declaration, Section 12 stipulates how the buildings and structures on the land would be cleared. A Clearance Order is to be issued by the Competent Authority, whereafter the occupants are given a specified time to vacate the buildings. An appeal against the Clearance Order lies before a Tribunal. Once the Clearance Order becomes operative, the landowner must demolish the buildings on its land within six weeks, at its own cost.
12. Within this scheme, sub-section (10) of Section 12 further allows the owner to redevelop the land after the execution of the Clearance Order, subject to any laws governing town planning, erection of buildings, and approval of plans as well as any restrictions placed by the Competent

Authority. For reference, we shall quote the following portion of Section 12:

“12. Clearance Order.–

[xxxxx]

*(10) Subject to the provisions of this Act, and of any other law for the time being in force in relation to town-planning and to the regulation of the erection of buildings, 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 Competent Authority, and subject to such restrictions and conditions (including a condition with regard to the time within which the redevelopment shall be completed), if any as that Authority may think fit to impose:*

Provided that, an owner who is aggrieved by a restriction or condition so imposed on the user of his land, or by a subsequent refusal of the Competent Authority to cancel or modify any such restriction or condition may, within such time as may be prescribed, appeal to the Tribunal and its decision shall be final.

(11) No person shall commence or cause to be commenced any work in contravention of a plan approved or a restriction or condition imposed under sub-section (10).”

[Emphasis supplied]

- 13.** Finally, the Competent Authority is also permitted to redevelop the Clearance Area at its own cost under Section 13(1). The only requirements to exercise this power are that the owner must not have commenced redevelopment work and the Competent Authority ought to be satisfied that such an action would be necessary in public interest.

Section 13 is reproduced hereinbelow:

“13. Power of Competent Authority to redevelop clearance area.–

(1) Notwithstanding anything contained in sub-section (1) of section 12, the Competent Authority may, at any time after the land has been cleared of buildings in accordance with a clearance order, but before the work of redevelopment of that land has been commenced by the owner, by order, determine to redevelop the land at its own cost, if that Authority is satisfied that it is necessary in the public interest to do so.

(2) Where land has been cleared of the buildings in accordance with a clearance order, the Competent Authority, if it is satisfied that the land has been, or is being, redeveloped by the owner thereof in contravention of plans duly approved, or any restrictions or conditions imposed under sub-section (10) of section 12, or has not been

redeveloped within the time, if any, specified under such conditions, may, by order, determine to redevelop the land at its own cost: Provided that, before passing such order, the owner shall be given a reasonable opportunity of showing cause why the order should not be passed.”

- 14.** To complement the above-mentioned ability of the Competent Authority to redevelop the Clearance Area, Chapter V introduces a procedure for the acquisition of land under the Slums Act. While Section 14 gives power to the State Government to acquire land, subsequent Sections provide for concomitant processes to take over possession of the land as well as for computation, apportionment, and payment or deposit of compensation for the acquisition.

- 15.** For reference, Section 14 is reproduced below:

“14. Power of State Government to acquire land.– (1) *Where on any representation from the Competent Authority it appears to the State Government that, in order to enable the Authority to execute any work of improvement or to redevelop any slum area or any structure in such area, it is necessary that such area, or any land within adjoining or surrounded by any such area should be acquired, the State Government may acquire the land by publishing in the Official Gazette, a notice to the effect that the State Government has decided to acquire the land in pursuance of this section:*

Provided that, before publishing such notice, the State Government, or as the case may be, the Competent Authority may call upon by notice the owner of, or any other person who, in its or his opinion may be interested in, such land to show cause in writing why the land should not be acquired with reasons therefor, to the Competent Authority within the period specified in the notice; and the Competent Authority shall, with all reasonable despatch, forward any objections so submitted together with his report in respect thereof to the State Government and on considering the report and the objections, if any, the State Government may pass such order as it deems fit.

(1A) The acquisition of land for any purpose mentioned in sub-section (1) shall be deemed to be a public purpose.

(2) When a notice as aforesaid is published in the Official Gazette, the land shall, on and from the date on which the notice is so published, vest absolutely in the State Government free from all encumbrances.”

16. This above system, holistically, constitutes the original framework for initiating the redevelopment of slums under the Slums Act, beginning with declaration of a Slum Area and concluding with either the owner developing it or the SRA taking over the redevelopment.

A.2 New Framework for Slum Rehabilitation (Between 1995 and 2018)

17. In 1995, the Maharashtra State Legislature amended the Slums Act to introduce a new framework for Slum Rehabilitation through Chapter I-A. According to the Statement of Objects and Reasons of the Amendment, the intention was to establish an authority responsible for overseeing each aspect of the slum rehabilitation process, including situations where slum dwellers were not participating. The phrase ‘Slum Rehabilitation Work’ has since been defined within Section 2(h-e) of the Slums Act as “***the work relating to demolition of any structure or any part thereof in slum area or Slum Rehabilitation Area, and construction of a new building thereon.***” This amendment, however, did not tinker with the original legislative policy existing prior to 1995. Instead, Chapter I-A was incorporated to act as a separate procedure, applicable to certain areas.
18. Section 3A provides for the appointment of the Slum Rehabilitation Authority for certain areas to facilitate and regulate the redevelopment process. For this purpose, each SRA has a Chief Executive Officer (**CEO**). In the context of the area concerned in the instant case, the SRA for Greater Mumbai has been in place since 1995.

19. Section 3B stipulates the power and duty of the SRA to prepare the General Slum Rehabilitation Scheme (**General SR Scheme**) for the area covered by the SRA. Sub-section (4), which lists the matters which the General SR Scheme would provide for, is reproduced for reference:

“3B. Slum Rehabilitation Schemes.–

[xxxx]

(4) 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 rehabilitation 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 an area as the slum rehabilitation area;*
- (b) basic and essential parameters of development of slum rehabilitation area under the Slum Rehabilitation Scheme;*
- (c) **provision for obligatory participation of the landholders and occupants of the area declared as the slum rehabilitation area under the Slum Rehabilitation Scheme in the implementation of the Scheme;***
- (d) provision relating to transit accommodation pending development of the slum rehabilitation area and allotment of tenements on development to the occupants of such area, free of cost.*
- (e) **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 development; 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;***
- (f) 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;*
- (g) provision regarding non-transferable nature of tenements for a certain period, etc.*

[xxxx] ”

[Emphasis supplied]

20. Section 3C, reproduced hereinafter, provides for the declaration of an area as a Slum Rehabilitation Area (**SR Area**). After the publication of the General SR Scheme, the CEO can declare any area as an SR Area, if it

meets the criteria specified in the said Scheme. Such a declaration (**Section 3C(1) Declaration**) would be published in the Official Gazette, and an appeal against it lies before the Special Tribunal.

“3C. Declaration of a slum rehabilitation area.– (1) *As soon as may be, after the publication of the Slum Rehabilitation Scheme, the Chief Executive Officer on being satisfied circumstances in respect of any area, justifying its declaration as slum rehabilitation area under the said scheme, may by an order published in the Official Gazette, declare such area to be a “slum rehabilitation area”. The order declaring 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 Slum Rehabilitation Authority.*

(2) Any person aggrieved by the slum rehabilitation order may, within four weeks of the publication of such order prefer an appeal to the Special Tribunal; and the decision of the Special Tribunal shall be final.

(3) On the completion of the Slum Rehabilitation Scheme, the Slum Rehabilitation Area shall cease to be such area.”

- 21.** Section 3D contains the provisions for the application of other Chapters of the Slums Act to an area declared as an SR Area. Section 3D(a) stipulates that Chapters II (regarding declaration of Slum Areas) and III (regarding improvements in Slum Areas) would not apply to an SR Area.
- 22.** Section 3D(b) clarifies that Chapter IV (regarding clearance and redevelopment) applies to SR Areas. As per sub-clause (i), Section 11 (regarding declaration as Clearance Area) is not applicable to an SR Area. As such, once an area is declared to be an SR Area, it cannot then be declared as a Clearance Area.
- 23.** Section 3D(b)(ii) provides that Section 12 of the Slums Act is applicable with certain modifications. Effectively, the CEO is empowered to issue a Clearance Order under Section 12 in respect of SR Areas. It is pertinent

that the modification virtually retains sub-section (10), wherein, as already elucidated, the private owner of the SR Area has the right to redevelop it after the Clearance Order comes into force.¹

24. Section 3D(b)(iii), then, effectively substitutes Section 13 and introduces a new framework which replaces the original scheme. Under this new provision, the SRA can decide to undertake rehabilitation of the slum itself after the area is declared an SR Area.
25. Section 3D(c) deals with the applicability of Chapter V (regarding the acquisition of land). Generally, the acquisition powers under Chapter V are made applicable to SR Areas with certain modifications. These modifications place the CEO as a substitute for the Competent Authority. Specifically, a modification is also made to the first part of Section 14 to clarify when the acquisition can be undertaken.
26. The remaining provisions in Section 3D address other aspects of implementing the Slum Rehabilitation Scheme (**SR Scheme**) and ensuring the rehabilitation of slum dwellers.
27. At this juncture, it is essential to reproduce the relevant portions of Section 3D:

“3D. Application of other Chapters of this Act to slum Rehabilitation Area with modification.– On publication of the slum Rehabilitation Scheme under sub-section (1) of Section 3B, the provisions of other Chapters of this Act shall apply to any area declared as the slum rehabilitation area, subject to the following modifications, namely:-

[xxxx]

¹ Reproduced in Paragraph 12.

(b) in Chapter IV,-

[xxxxx]

(ii) in Section 12,-

[xxxxx]

(H) in sub-section (10),-

(a) for the words “Competent Authority”, the words “Slum Rehabilitation Authority” shall be substituted;

(b) in the proviso,-

(i) for the words “Competent Authority”, the words “Chief Executive Officer” shall be substituted;

(ii) for the words “Tribunal”, the words “Special Tribunal” shall be substituted;

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

“13. Power of Slum Rehabilitation Authority to develop Slum Rehabilitation Area.- (1) Notwithstanding anything contained in sub-section (10) of section 12, the Slum Rehabilitation authority may, after any area is declared as the Slum Rehabilitation Area, if the landholders or occupants of such area do not come forward within a reasonable time, with a scheme for redevelopment of such land, by order, determine to redevelop such land by entrusting it to any agency for the purpose.

(2) Where on declaration of any area as a Slum Rehabilitation Area the Slum Rehabilitation Authority, is satisfied that the land in the Slum Rehabilitation Area has been or is being developed by the owner in contravention of the plan duly approved, or any restrictions of conditions imposed under sub-section (10) of section 12, or has not been developed within the time, if any, specified under such conditions it may, by order, determine to develop the land by entrusting it to any agency for the purpose:

Provided that, before passing such the owner shall be given a reasonable opportunity of cause why such order should not be passed.”;

(c) in Chapter V,-

(i) in Section 14, in sub-section (1),-

(A) for the portion beginning with the words “Where on any representation” and ending with the words “clearance area” the following portion shall be substituted, namely:-

“Where on any representation from the Chief Executive Officer it appears to the State Government that, in order to enable the Slum Rehabilitation Authority to carry out development under the Slum Rehabilitation Scheme in any Slum Rehabilitation Area”

(B) after the proviso, the following proviso shall be added, namely:-

“Provided further that, the State Government may delegate its powers under this sub-section to any officer not below the rank of Commissioner.”

[xxxxx]”

28. The text of Section 14, as contained in Chapter V in the original legislative scheme, has already been reproduced in Paragraph 15 above. However, as previously noticed, for the purpose of giving effect to the new scheme envisaged in Chapter I-A, the said Section 14, especially sub-section (1) thereof, has been partially amended through Section 3D and reads as follows:

“14. Power of State Government to acquire land.– (1) Where on any representation from the Chief Executive Officer it appears to the State Government that, in order to enable the Slum Rehabilitation Authority to carry out development under the Slum Rehabilitation Scheme in any Slum Rehabilitation Area it is necessary that such area, or any land within adjoining or surrounded by any such area should be acquired, the State Government may acquire the land by publishing in the Official Gazette, a notice to the effect that the State Government has decided to acquire the land in pursuance of this section:

Provided that, before publishing such notice, the State Government, or as the case may be, the Competent Authority may call upon by notice the owner of, or any other person who, in its or his opinion may be interested in, such land to show cause in writing why the land should not be acquired with reasons therefor, to the Competent Authority within the period specified in the notice; and the Competent Authority shall, with all reasonable despatch, forward any objections so submitted together with his report in respect thereof to the State Government and on considering the report and the objections, if any, the State Government may pass such order as it deems fit.

Provided further that, the State Government may delegate its powers under this sub-section to any officer not below the rank of Commissioner.

[xxxx] ”

[Emphasis supplied]

29. The subsequent provisions of Chapter I-A lay down the administrative aspects of the SRA's functioning.

30. Since the instant case pertains to an SR Area under Chapter I-A, it is clarified that wherever the provisions of Chapters IV and V are referred to, the reference remains to the modified provisions as they are now encapsulated in Section 3D. However, wherever need be, the original

provisions of Chapters IV and V will be referred to with the phrase 'original framework'.

A.3 The 2018 Amendment

- 31.** The Slums Act was further amended in 2018, with substantial changes made to the expressions and language of certain provisions, reflecting the revised legislative policy.
- 32.** However, considering that the actions impugned before the High Court took place before the amended Act came into force on 26.04.2018, there is no gainsaying that the instant case would have to be adjudicated in accordance with the law as it stood when the acquisition was initiated.
- 33.** We are pained to observe that the Slums Act, especially the framework for Slum Rehabilitation, is poorly structured. There appears to be no cogent reason as to why, instead of enacting a self-contained code within Section I-A, the drafters of this legislation chose to incorporate an entirely distinct slum rehabilitation mechanism by amending the existing legislation through Section 3D. This approach to drafting inevitably blurs the boundaries between the two frameworks, creating confusion in the mind of a reader. In this backdrop, dealing with the 2018 Amendment at this stage would only exacerbate the perplexity. We thus do not deem it necessary to refer to or reproduce the 2018 Amendment.

A.4 Subordinate Legislation and other Circulars

- 34.** It is also imperative to note that the Slums Act is supplemented by critical subordinate legislation/circulars to enable its proper

implementation. Keeping in view the discussion above, consideration would be limited to the subordinate legislation/circulars applicable at the time of initiation of the acquisition. The same are noticed herein below.

A.4.1 Development Control Regulations for Greater Mumbai, 1991

35. The development of urban areas in Maharashtra is governed by the Maharashtra Regional and Town Planning Act, 1966. Under this Act, the State Government notified the Development Control Regulations for Greater Mumbai, 1991 (**DCR 1991**). It creates a regulatory framework for any development work to be carried out within Greater Mumbai. Regulation 33(10) was introduced to cover plans to redevelop slums. This Regulation predates the new framework under Chapter I-A of the Slums Act and is thus applicable in cases of development of Slum Areas as well as SR Areas. It provides a comprehensive scheme of requirements and approvals, along with development incentives, such as additional transferable Floor Space Index (**FSI**). Although the DCR 1991 has been replaced in 2020 by the Development Control and Promotion Regulations for Greater Mumbai, 2034 (**DCPR 2034**), Regulation 33(10) retains its position and remains substantially unchanged.

A.4.2 Guidelines for the Implementation of Slum Rehabilitation Policy in Greater Mumbai, 1997

36. The SRA issued the Guidelines for the Implementation of Slum Rehabilitation Policy in Greater Mumbai, 1997 (**1997 Guidelines**), to clarify the procedure for slum rehabilitation. Clause IV of the 1997

Guidelines outlines the procedure for submitting, processing, and approving SR Schemes. In Paragraph 8 thereof, it is provided that redevelopment plans are to be prepared in accordance with Regulation 33(10) of the DCR 1991. Furthermore, it lays out the various Annexures which are to be duly filled and submitted along with the proposal. They require details such as the ownership of the land, the existing structures on the land, a list of dwellers, and their approval for the proposed redevelopment scheme, as well as the financial details showing the promoter's capacity to undertake and complete the redevelopment. The 1997 Guidelines subsequently outline the further steps to be taken by the SRA to process any proposal submitted in the specified format.

A.4.3 General Slum Rehabilitation Scheme for Greater Mumbai, 1998

37. The SRA has also notified the General Slum Rehabilitation Scheme for Greater Mumbai, 1998 (**1998 General Scheme**) under Section 3B of the Slums Act. It covers the parameters based on which the rehabilitation of the slum would be undertaken by the SRA.

A.4.4 SRA Circular Nos. 144 and 144-A

38. The SRA has issued various circulars to clarify and lay down the procedures of its functioning. Specifically, Circular No. 144, issued on 31.08.2013, provides the procedure for submission, scrutiny, and consideration of an SR Scheme. *Inter alia*, it requires that the proposal be submitted as per Regulation 33(10) of DCR 1991, and all the relevant Annexures be included with the proposal. It also makes various clarifications and suggestions to streamline the scrutiny process.

Importantly, it lays down that the SR Schemes must be strictly in conformity with the laid down format. The SRA has also issued Circular No. 144-A on 09.11.2015, whereunder, it recognises that landowners have the first right to file SR Schemes and has relaxed the requirement of obtaining the consent of 70% of slum dwellers if the landowner(s) themselves file the SR Scheme.

B. FACTS

39. Having illustratively captured the statutory scheme, we now advert to the facts of this case, which are delineated below in detail.

39.1. Indian Cork Mills Private Limited (**ICM**) has been the owner of the Subject Land since 1970. The said land seems to have been encroached upon by hutment dwellers, and thereupon, a portion of it admeasuring 3,045.03 sq. m. was declared as a 'Slum Area' under Section 4 of the Slums Act on 18.09.1979.

39.2. Over time, the slum expanded, and its dwellers formed the Tarabai Nagar Co-operative Housing Society (Proposed) (**Tarabai Society**) on 28.02.2002.

39.3. Tarabai Society moved letters and applications in 2006-2008 before the Competent Authority under the Slums Act, seeking a survey of the slum, declaration of the remainder of the Subject Land as a Slum Area, and its acquisition for redevelopment. Accordingly, surveys were conducted, and *vide* notification dated 11.03.2011, the SRA declared the entire Subject Land as an SR Area through a Section 3C(1) Declaration.

- 39.4.** As a consequence, Tarabai Society reiterated its request to the Additional Collector (Encroachment/Clearance), Eastern Suburban, Mumbai, for acquiring the Subject Land under Section 14,² through letters dated 28.02.2012, 15.03.2012, and 05.05.2012, coupled with a proposal to redevelop the same.
- 39.5.** In pursuance of the above proposal, the State of Maharashtra, through the Additional Collector, issued a public notice dated 17.05.2012 under the first *proviso* to Section 14(1),³ calling upon ICM, as landowner, and other interested parties to show cause as to why Tarabai Society's proposal should not be forwarded for approval. As per ICM, this notice was not served upon it.
- 39.6.** As things stood thus, proceedings in this regard were originally initiated before the Additional Collector in the absence of ICM. Although some third parties had raised objections, the Additional Collector rejected them as these were in respect of adjoining parcels of land, not the Subject Land. As such, the Additional Collector recommended that the Subject Land be acquired and forwarded a report dated 04.08.2012 to the Housing Department, Government of Maharashtra.
- 39.7.** Upon consideration of the report, the Ward Officer, Housing Department, sought the remarks of the CEO on the land acquisition proposal. The CEO, *vide* letter dated 29.11.2012, informed the State that no SR Scheme had been received in respect of the subject property, and there

² Reproduced in Paragraph 28.

³ Reproduced in Paragraph 28.

was no objection to the acquisition. However, the State was not satisfied with the response and sought clarification from the CEO as to whether the landowners had been heard or any opportunity had been given to them.

39.8. Accordingly, a fresh notice was issued to ICM on 08.08.2013 regarding the land acquisition proposal. It responded to the notice on 23.08.2013, stating, *inter alia*, that, as the owner, it would like to develop the property itself, under an SR Scheme, without any third-party involvement. ICM further reiterated this objection during the hearings dated 26.08.2013 and 16.09.2013, whereafter the CEO reserved its order on the matter.

39.9. Meanwhile, ICM relayed a communication dated 12.09.2013 to the Deputy Collector, SRA, highlighting its intention to redevelop the Subject Land without any interference from third-party builders and developers.

39.10. ICM also addressed a letter dated 08.10.2013 to Tarabai Society, confirming its willingness to redevelop the Subject Land by implementing an SR Scheme. However, the Tarabai Society does not appear to have responded to the said letter. On the other hand, a different society, namely, the Tara Nagar Welfare Society, approached ICM regarding rehabilitation, but no substantive communication proceeded with this society.

39.11. Finally, the CEO submitted its report dated 21.12.2013 to the State Government, proposing to acquire the Subject Land. It was

recommended that the acquisition be undertaken under Section 14,⁴ and that while ICM had relayed its willingness to redevelop the Subject Land, it had not filed any SR Scheme. The CEO also conveyed a formal request for acquisition, *vide* letter dated 09.01.2014.

39.12. Subsequently, the SRA, acting on the directions of the State Government, conducted inspections and surveys on the Subject Land to determine its feasibility for implementing an SR Scheme. It was reported that rehabilitation is feasible, and if the land were to be acquired, the SRA would be able to approve an SR Scheme. The Housing Department, thereafter on 09.01.2015, directed that the matter be placed for consideration before the Minister for Housing, Government of Maharashtra, for appropriate orders.

39.13. In this backdrop, ICM sent a letter dated 25.02.2015 to the Minister for Housing, reiterating its intention to develop the Subject Land and not to grant rights in this regard to any third party. This letter was then forwarded to the CEO, requesting that it reply to ICM and mark a copy to the Government.

39.14. ICM communicated another letter, dated 06.05.2015, to the CEO, reiterating its willingness to develop the Subject Land in accordance with the stipulations prescribed under Regulation 33(10) of the DCR 1991. For this purpose, ICM sought directions from the SRA to enable it to

⁴ Reproduced in Paragraph 28.

carry out a survey and demarcation so as to submit a proposal for redevelopment.

39.15. Considering the above correspondence, the CEO, on 15.05.2015, recommended to the State that, in conformity with the notion that the landlord ought to be afforded the first right to develop the land, an opportunity ought to be given to ICM to submit an SR Scheme. Still further, the State, in its response dated 12.10.2015, recorded that the entire matter ought to be reconsidered, either at the level of the SRA or, if necessary, at the level of the High-Powered Committee constituted by the High Court.⁵

39.16. The CEO, however, in what can be construed as a *volte face*, forwarded a report dated 12.09.2016 to the State Government, reaffirming its previous reasoning that ICM has not submitted any SR Scheme and that it would thus not be proper to provide another opportunity to ICM. As such, it was recommended that the acquisition of the Subject Land be initiated by the State Government.

39.17. In this vein, the State Government issued a notification dated 22.12.2016 under Section 14(1)⁶ for the acquisition of the Subject Land.

39.18. Additionally, the SRA sent a communication dated 07.01.2017 to ICM, seeking details of the Subject Land required for the acquisition. This

⁵ High Court of Judicature at Bombay, Writ Petition No. 1326 of 2007, judgement dated 01.11.2007; High Court of Judicature at Bombay, Notice of Motion No. 126 of 2008 in Writ Petition No. 1326 of 2007, judgement dated 18.12.2008.

⁶ Reproduced in Paragraph 28

included the number of hutments, the approximate rent of each hut, and the total rent recovered over the last 5 years. ICM was also informed to be present before the Deputy Collector, SRA, for a hearing scheduled on 19.01.2017.

39.19. Aggrieved, ICM filed Writ Petition No. 658 of 2017 before the High Court, challenging the notification dated 22.12.2016 and the notice dated 07.01.2017.

39.20. The High Court, *vide* an interim order dated 27.01.2017, directed that *status quo* be maintained in respect of the acquisition of the property.

39.21. The High Court on 13.06.2018 passed the Impugned Judgement, allowing the Writ Petition. As already iterated, the High Court held that **(i)** a landowner has a preferential right to develop the Subject Land, which is enshrined in Sections 3B(4) and 13(1) of the Slums Act;⁷ **(ii)** the SRA was under a duty to issue a notice to invite the owner to submit an SR Scheme once private land is declared to be an SR Area; and **(iii)** the power of the State to acquire land under Section 14 read with Section 3D(c)(i)⁸ was subject to the owner's preferential right. The Court, therefore, concluded that if an owner had not been invited to submit an SR Scheme, such acquisition would be without foundation and consequently fail. Keeping these postulates in mind, the High Court observed that the State and the SRA had conducted the acquisition in the absence of any proper opportunity afforded to ICM to submit its SR

⁷ Reproduced in Paragraphs 19 and 27.

⁸ Reproduced in Paragraphs 27 and 28.

Scheme. Thus, the High Court set aside the acquisition and directed the SRA to consider ICM's proposal expeditiously.

39.22. *Vide* a clarificatory order dated 09.07.2018, the High Court corrected a typographical error in the judgement dated 13.06.2018.

39.23. Aggrieved by the decision of the High Court, Tarabai Society, the State of Maharashtra, and the SRA have filed independent appeals against the Impugned Judgements dated 13.06.2018 and 09.07.2018.

C. CONTENTIONS

40. Mr. Shyam Divan, learned Senior Counsel, appearing on behalf of Tarabai Society, vehemently contended that neither the legislative scheme of the Slums Act nor the facts and circumstances of this case warrant that ICM be allowed to interfere in the redevelopment of the Subject Land. In this regard, he adduced the following submissions:

(a) The High Court has incorrectly interpreted a preferential right in favour of the landowner as being implied in Section 13 of the Slums Act.⁹ The text of the provision does not indicate that the owner has the right to redevelop land over other stakeholders. The law also does not provide for any specific notice to be issued to the landowner.

(b) A landholder, which includes the owner of the land, does not fulfil the requirement of Section 13¹⁰ by merely announcing its intent to

⁹ Reproduced in Paragraph 27.

¹⁰ Reproduced in Paragraph 27.

redevelop the land. Instead, it must demonstrate that actual steps have been taken to initiate an SR Scheme.

- (c) The SR Scheme must be submitted within the format prescribed by the 1997 Guidelines and Regulation 33(10) of the DCR 1991. In this regard, reliance has been placed on two judgements of the Bombay High Court, ***Atesham Ahmed Khan v. Lakadawala Developers Pvt. Ltd.***¹¹ and ***Awdesh Vasistha Tiwari v. Chief Executive Officer, Slum Rehabilitation Authority***,¹² as well as SRA Circular No. 144 dated 31.08.2013, to buttress the contention that the proposal to redevelop must be strictly as per the format.
- (d) The power to acquire land under Section 14 of the Slums Act¹³ is independent of Section 13,¹⁴ which only deals with the decision of the authority to develop the land on its own. Such a distinction was also upheld by this Court in an unreported judgement titled ***Murlidhar Teckchand Gandhi and others v. State of Maharashtra and others***,¹⁵ wherein it was held that acquisition would only be subject to the requirements explicated in Section 14.
- (e) The High Court has wrongly distinguished ***Murlidhar Teckchand Gandhi (supra)*** on account of the difference between a 'Slum Area' and an 'SR Area'. Despite the variation between the cited case and

¹¹ 2011 SCC OnLine Bom 239.

¹² 2006 SCC OnLine Bom 481.

¹³ Reproduced in Paragraph 28.

¹⁴ Reproduced in Paragraph 27.

¹⁵ Supreme Court of India, Civil Appeal No. 11077 of 2017, judgement dated 29.08.2017.

the present appeals, the scope and interrelationship of Sections 13 and 14, as, laid down in the former,¹⁶ are squarely applicable to the latter.¹⁷

- (f)** In the instant case, ICM has been negligent towards the slum dwellers. In spite of a part of the Subject Land having been declared a Slum Area in 1979, no efforts were undertaken by ICM for over four decades towards any development or improvement. Even after the Subject Land was declared as an SR Area in 2011, ICM has not redeveloped it.
- (g)** ICM was aware of the Section 3C(1) Declaration dated 11.03.2011, more so when it stood published in the Official Gazette on 16.03.2011. There is a presumptive notice to the public at large from the date of publication of the Official Gazette. As such, ICM ought to have come forward within a reasonable time with an SR Scheme for the redevelopment of the Subject Land. Failing this, ICM has fallen short of its obligation under Section 13¹⁸ and cannot now claim any purported preferential right.
- (h)** ICM has no intention to redevelop the Subject Land. Originally, in 2012, it did not attend the hearing on the acquisition proposal under the garb of not being informed. This was despite notices being published in one English and one vernacular (Marathi) newspaper.

¹⁶ Reproduced in Paragraphs 13 and 15.

¹⁷ Reproduced in Paragraphs 27 and 28.

¹⁸ Reproduced in Paragraph 27.

Even in 2013, when the hearings were conducted anew, ICM's representatives only conveyed that they intended to redevelop the Subject Land. No SR Scheme was submitted as per Regulation 33(10) of DCR 1991. Instead, mere letters were sent between 2013 and 2016, reiterating ICM's purported intention to redevelop the Subject Land independently.

- (i) ICM's inaction has resulted in huge delays in the rehabilitation process. The slum dwellers, who are the constituents of Tarabai Society, are its primary victims. In light of this delay, there was, thus, no option but to move for the acquisition of the Subject Land. Keeping in mind ICM's conduct, the High Court erred in setting aside the acquisition and granting it another opportunity.

41. Mr. Shyam Mehta, learned Senior Counsel representing the State of Maharashtra, and Mr. Sudhanshu S. Choudhari, learned Senior Counsel appearing on behalf of the SRA, clarified that the State and the SRA were not intending to take any position on the facts of the case. Instead, the respective appeals were filed because they were aggrieved by the High Court's legislative interpretation. The following submissions were made on their behalf:

- (a) Section 13¹⁹ creates equal interest and rights in favour of the 'landholders' and 'occupants'. There is no preference for owners (as part of 'landholders') *vis-à-vis* the slum dwellers (occupants). Even

¹⁹ Reproduced in Paragraph 27.

other provisions of the Slums Act, such as Section 3B(4)(c) and (e),²⁰ envision the rights of the owner to be on par with those of other stakeholders.

(b) The High Court has incorrectly interpreted a requirement for specific notice in Section 13.²¹ Even if the owner has a preferential right to redevelop an SR Area, there is no basis for a demand to be specifically invited to redevelop. Section 13 does not contemplate the issuance of any specific notice to a party. Rather, when the Section 3C(1) Declaration is published in the Official Gazette, it ought to constitute adequate notice to the owner, as also all other stakeholders.

(c) The intention behind the system developed in Chapter I-A of the Slums Act is aimed at efficient and effective rehabilitation of slums. The process must be simplified and expedited to ensure efficiency. Adding requirements for specific notice in favour of the owners and allowing them to interfere in development efforts belatedly would only delay the process.

42. On the contrary, Dr. Abhishek Manu Singhvi and Mr. Amar Dave, learned Senior Counsels appearing on behalf of ICM, asserted that the High Court's interpretation of the Slums Act was well-founded. They also highlighted the substantive and procedural lapses on the part of the

²⁰ Reproduced in Paragraph 19.

²¹ Reproduced in Paragraph 27.

Appellants in the instant case. In this respect, they sought to put forth the following averments:

- (a) The Slums Act creates a preferential right in favour of the owner to develop it. Section 3B(4)(c) and (e),²² as well as Section 13,²³ showcase this inalienable right in the cases of SR Schemes. The primacy of the landowner is also discernible in the SRA's Circular No. 144-A dated 09.11.2015, wherein it is stated that the '**first right to file the Slum Rehabilitation scheme is of the owner of the land**'. Such a preferential right has also been accepted by the State and the SRA in their internal communications.
- (b) The requirement of a specific notice to the owner to submit an SR Scheme is essential to protect its preferential right. If the owner does not act within a reasonable time under Section 13,²⁴ the SRA or another entity can move to undertake redevelopment, prejudicing the owner's rights. The SRA must, thus, ensure that the owner is notified of the Section 3C(1) Declaration and invited to submit an SR Scheme. This enables the owner to exercise its rights. The SRA has also issued such notices in previous cases, inviting the landowners therein to submit redevelopment proposals.

²² Reproduced in Paragraph 19.

²³ Reproduced in Paragraph 27.

²⁴ Reproduced in Paragraph 27.

- (c)** There is no legislative mandate encapsulated within Section 13 of the Slums Act,²⁵ which necessitated the submission of a scheme in the format prescribed by the DCR 1991.
- (d)** A complete SR Scheme, in line with Regulation 33(10) of DCR 1991, can only be submitted once mapping, surveys, and studies are completed. This requires the consent and support of the SRA. In the absence of such support, no owner would be able to submit an SR Scheme. No such material information was ever offered by the SRA to ICM.
- (e)** If the consequent proposal submitted by the owner is considered deficient, the SRA must notify the owner of the deficiencies and provide a reasonable opportunity to rectify the same.
- (f)** Sections 13 and 14 read with Section 3D of the Slums Act²⁶ are not independent provisions. The purpose of acquisition under Section 14 is to enable the SRA to carry out development under an SR Scheme. Since the decision of the SRA to redevelop the SR Area on its own is governed by Section 13, it is intertwined with the purpose of acquisition under Section 14. If the SRA does not first allow the owner to redevelop, it cannot decide to develop the land itself, and the purpose of acquiring the land cannot arise. Thus,

²⁵ Reproduced in Paragraph 27.

²⁶ Reproduced in Paragraphs 27 and 28.

acquisition under Section 14 cannot pre-empt the statutory compliance of the mandate contained under Section 13.

- (g) The decision of this Court in ***Murlidhar Teckchand Gandhi (supra)*** is inapplicable to the instant case and has been rightly distinguished by the High Court in the Impugned Judgement.
- (h) ICM has, unequivocally, been ready to redevelop the land on its own. Through various means, including letters to the SRA and the State, the owner has reiterated this intention. It had even reached out to the Tarabai Society to initiate the process of redevelopment in 2013, but no response was received from them.
- (i) Though the State and the SRA have recognised ICM's preferential right to redevelop the Subject Land in their communications and internal noting, no opportunity was granted to it to submit a proposal for redevelopment.
- (j) Tarabai Society is operating with a *mala fide* intention, aiming to grab the Subject Land at a low price to benefit a private builder, with whom they are colluding. The land, after redevelopment, could generate approximately INR 900 crores in revenue from the sale of residential and commercial units. In comparison, the land acquisition compensation, which would be paid to the owner, is a paltry sum of INR 25 lakhs. The Society and its builder have also previously acted deceitfully, when the representative of the said

builder had filed a false affidavit before the SRA that it was ICM's Constituted Attorney.

- (k)** Following the pronouncement of the Impugned Judgement, ICM promptly submitted its SR Scheme, and the process for its approval was underway when the instant appeals were filed. By seeking and obtaining an order of *status quo* from this Court, Tarabai Society has further delayed the process of rehabilitation.

D. ISSUES

43. Having given our thoughtful consideration to the rival submissions and having scrutinised the material on record, we find that the following issues arise for consideration by this Court:

- I.** Whether the owner of the land in an SR Area has any preferential right to redevelop it under Chapter I-A of the Slums Act?
- II.** Whether such preferential right, if any, entails that the owner be specially notified and invited to redevelop the SR Area before the SRA takes a decision under Section 13 read with Section 3D(b)(iii) of the Slums Act?²⁷
- III.** Whether the power of the State Government to acquire land under Section 14 read with Section 3D(c)(i) of the Slums Act²⁸ is subject to the preferential right, if any, of the owner?

²⁷ Reproduced in Paragraph 27.

²⁸ Reproduced in Paragraphs 27 and 28.

- IV.** Whether, in the facts of the instant case, the acquisition of the Subject Land by the State Government has rightly been set aside by the High Court?

E. ANALYSIS

E.1 Issue I: Existence of a Preferential Right to Develop the Land

- 44.** The High Court *vide* the Impugned Judgement has held that the scheme of Chapter I-A of the Slums Act creates a preferential right in favour of the owner of an SR Area to redevelop it. For this, besides interpreting the relevant provisions, the High Court has relied upon the communications between the SRA and the State as well as SRA Circulars to identify a preferential right encapsulated in the legislative scheme. On the other hand, the Appellants have sought to make out that the text of the Slums Act does not exhibit any such primacy in favour of the owner.

E.1.1 The Owner's Right to Develop the Land

- 45.** Let us first consider the right of the owner to develop the SR Area.
- 46.** The Statute contemplates that once the land is declared as an SR Area, it must ordinarily be redeveloped under an SR Scheme. However, before an SR Scheme is envisaged or implemented, if a Clearance Order is passed in respect of such land, then the owner may develop it in terms of the right conferred under Section 12(10).²⁹ Here, the owner is given clear, unparalleled rights to develop the SR Area, as long as the plan is approved by the SRA.

²⁹ Reproduced in Paragraphs 12 and 27.

47. The landowner is also included within the framework of SR Schemes. The mandate for involvement of the owner in rehabilitation goes beyond mere obligatory participation (see Clause (c) of Section 3B(4)).³⁰ Clause (e) of Section 3B(4), rather expressly conceptualises that there can be an SR Scheme propounded by the ‘landholders’ and occupants themselves or through a developer, with an option to the SRA for taking up such development in the event of non-participation of the ‘landholders’ or occupants. This statutory mandate has been explicitly insulated in the 1998 General Scheme, Clause 6 whereof, permits the ‘landlord’ to undertake an SR Scheme.

48. In fact, the legislative intent imbibed in Section 3B(4)(e)³¹ has been reiterated throughout Section 13(1),³² which, *inter alia*, provides that notwithstanding anything contained in Section 12(10), the SRA can launch a scheme for redevelopment of such land which has been declared as SR Areas and where the landholders or occupants of such areas do not come forward within a reasonable time with a scheme for redevelopment.

E.1.2 The Primacy of the Owner’s Right over the SRA’s Power

49. Since the owner of an SR Area has been granted an unambiguous right to redevelop, we now proceed to analyse whether such owner holds any precedence over the SRA’s power to develop the SR Area.

³⁰ Reproduced in Paragraph 19.

³¹ Reproduced in Paragraph 19.

³² Reproduced in Paragraph 27.

50. The question posed in the previous paragraph need not detain us for long, as, in our considered opinion, the Legislature has answered it in so many words through Section 3B(4)(e),³³ referred to above. We say so for the reason that the SRA has been assigned the responsibility to redevelop an SR Area only when the landholder or occupants do not come forward with a proposal for redevelopment. To put it differently, where landholders or occupants have submitted a proposal for redevelopment, it places a caveat against any claim by the SRA for its statutory right or preference to redevelop the SR Area on its own.

51. It may, however, be clarified that Section 13³⁴ has its own measure to balance the rights of slum dwellers, by imposing the restriction of ‘reasonable time’ on the owner’s right to redevelop. The resultant effect is that the SRA cannot undertake development of the SR Area unless the owner fails to come forward with a scheme within a reasonable time.

52. A similar approach to the development of an SR Area is also visible in Section 12(10)³⁵, where the owner is given a clear first right to develop the land in accordance with a plan approved by the SRA. The Appellants have sought to argue that the primacy established in Section 12(10) is irrelevant to the power of the SRA under Section 13,³⁶ given the *non-obstante* clause at the beginning of the latter Section. Be that as it may, the said provision reflects the common legislative thread running

³³ Reproduced in Paragraph 19.

³⁴ Reproduced in Paragraph 27.

³⁵ Reproduced in Paragraph 12.

³⁶ Reproduced in Paragraph 27.

throughout the Chapter I-A framework, which is that the landholders/owners possess primacy over the SRA's ability to redevelop the SR Area.

- 53.** As such, a logical reading of Sections 3B(4)(e) and 13(1)³⁷ makes it clear that the SRA's power to undertake redevelopment can only be invoked if the owner extinguishes its right to redevelop. The owner's right to develop an SR Area, thus, holds preference over that of the SRA within Chapter I-A of the Slums Act.

E.1.3 The Primacy of the Owner's Right over Other Stakeholders

- 54.** The Appellants, especially the State of Maharashtra and the SRA, have further argued that while the SRA's power to redevelop may be subject to the rights of the 'landholder' and the 'occupants', there is nothing in these provisions to create a preference for owners/landlords over the rights of the 'occupants' or other 'landholders'. Mr Mehta, in his arguments, emphatically took us through Sections 3B(4)(e) and 13(1)³⁸ to point out that no explicit distinction is created between 'landholders' and 'occupants', even if there is primacy over the powers of the SRA.

- 55.** We are, however, unable to accept this contention. We say so because a landowner of an SR Area is not only entitled to the rights granted by the Slums Act but also enjoys some inherent rights attached to an immovable property. Ordinarily, a landowner is entitled to all the incidental benefits derived from the ownership of such immovable

³⁷ Reproduced in Paragraphs 19 and 27.

³⁸ Reproduced in Paragraphs 19 and 27.

property. Ownership rights are also constitutionally protected and can only be interfered with as a result of the operation of law. Even the principles of equity come to the rescue of an owner, barring when the landowner is denuded of such protection in accordance with law. These rights even go beyond those of the other landholders.

56. Be that as it may, there also exist slum dwellers, belonging to the poor strata of society, who, on account of their economic backwardness and lack of governmental or social support, take shelter in extremely unhygienic conditions within slum areas. India being a welfare state, the Government has an unquestionable duty to confer these sections of our society with actionable rights for shelter and enable them to lead a dignified life. It is in performance of this duty and for the rehabilitation of these slum dwellers that the Slums Act has been enacted in Maharashtra. In doing so, while the Legislature has created rights in favour of the slum dwellers, the Slums Act also attempts to resolve the resultant dichotomy of interests between the landowners and slum dwellers. The legislation provides an opportunity for the landowner to develop the land, as well as for the occupants to bring their own scheme. It also creates incentives for a developer to undertake the development, such as an additional FSI and free-sale units.

57. Nevertheless, the dichotomy emerges in its complete form when we consider a case where the owner submits a valid SR Scheme, fulfilling all requirements for the slum dwellers, and the slum dwellers (through a proposed society) also bring forward another valid SR Scheme,

nominating a different developer to undertake the rehabilitation. If the argument of the Appellants is accepted, both of these proposals would have equal priority.

58. In such a situation, if the SRA is allowed to exercise any discretion in giving priority to a particular proposal, it may lead to discriminatory and arbitrary results motivated by extraneous considerations. It also creates scope for an unholy nexus between the SRA and private developers. Such a regime would leave slum dwellers, who are already at a grave disadvantage against developers and landowners, vulnerable to greater exploitation, and could even result in unaccountable losses to the State exchequer. Ultimately, the real victims would be the slum dwellers themselves, left in inhumane living conditions and pushed to the very end of the line when receiving the benefits envisaged under the Slums Act. To counteract such occurrences, the Legislature, in its wisdom, has thought it appropriate to confer preferential rights on the landowner, though conditional for the redevelopment of the SR Area.

59. The peremptory right of redevelopment vested in the landowner does not militate against the rights of the slum dwellers. As explained earlier, if the landowner does not come up with a redevelopment proposal within a reasonable time, the occupants of the SR Area are entitled to submit their own proposal for redevelopment, empowering this marginalised section of our urban society. It enables them to forward an SR Scheme through a willing developer when the owner is not ready to support their endeavour to rehabilitate themselves.

60. Therefore, there is no tenable reason, in law or in equity, to allow the occupants to exercise primacy over and steamroll the landowner's proposal, especially when the latter is willing to implement the SR Scheme by itself, within the confines of the Slums Act. If the interpretation suggested by the Appellants is accepted, we would inevitably incentivise third-party developers and anti-social elements to prop up the poor slum dwellers so as to grab the land from the true owners. It would ultimately encourage *mala-fide* proposals to be filed, manipulating the inhabitants of these slums and stripping the owners of the fruits of their land.
61. We are also not inclined to accept the proposed equivalence of the rights, given the fact that the SRA has recognised the legislative preference granted to the owner or landlord in Circular No. 144-A dated 09.11.2015, which stipulates that “***the first right to file the Slum Rehabilitation scheme is of the owner of the land.***” By relaxing the requirement of consent of seventy percent of the slum occupants, it depicts a clear intention on behalf of the SRA that the occupants cannot override the owner's proposal for an SR Scheme.
62. The learned Senior Counsel for ICM have also placed on record various notices issued by the SRA to owners of different SR Areas, expressly inviting them to exercise their “***first preferential right for implementation of the Slum Rehabilitation Scheme.***” They have further relied upon internal communications between the SRA and the

State, where both sides have seemingly acknowledged that the owner has the first right to develop the land.

- 63.** In light of the overwhelming material on record, which is in conformity with legislative intent, there can be no other conclusion but to deduce that a landowner has the first right among stakeholders to undertake redevelopment under an SR Scheme.

E.2 Issue II: Specific Notice/Invitation to the Owner

- 64.** Having held that the landowner has a preferential right to develop the land, the High Court then read into the provisions of the Statute a requirement for a specific notice to be issued to the owner, inviting it to participate in the redevelopment of the land. The High Court has, in this regard, interpreted the phrase ‘reasonable time’ in Section 13³⁹ to mean that the clock would start ticking only after the landowner is invited to submit an SR Scheme. *Per contra*, the Appellants have contended that no specific notice is required, and the owner is deemed to be notified once the Section 3C(1) Declaration, converting the land to an SR Area, is issued.

- 65.** As discussed earlier, there are at least three provisions in the Slums Act, where the preferential right of a landowner to redevelop an SR Area is traceable. However, such a right is subject to the condition encompassed under Section 13,⁴⁰ viz., the SR Scheme must be submitted within a reasonable time after the Section 3C(1) Declaration. The owner failing to

³⁹ Reproduced in Paragraph 27.

⁴⁰ Reproduced in Paragraph 28.

do so would likely result in the SRA exercising its power under Section 13 and taking over the development of the SR Area. In that eventuality, the owner would stand deprived of its preferential right to redevelop the SR Area.

66. We may hasten to add that beyond this adverse consequence, the situation would likely escalate to acquisition of the land under Section 14,⁴¹ backed by payment of a meagre compensation, which is far less than the fair and just market value of the property. In this eventuality, the owner loses not only its right to redevelop but, potentially, also the entirety of its rights over such land. This situation amplifies the already resounding need for the owner to first be notified and invited to exercise its rights.

67. It cannot be overlooked that in the absence of a prior notice, the owner may not even become aware that the Subject Land has been declared an SR Area. Unaware that it is required to submit an SR Scheme to exercise its preferential right, the owner could lose a substantial part of its rights over the land. This is despite being willing to submit an SR Scheme and undertake redevelopment. In contrast to the high likelihood of prejudice caused to the landowner, the procedural necessity of a prior notice does not cause inequity either to the first beneficiaries of the scheme, namely the slum dwellers, or to the SRA or the State. We fail to understand the SRA's admonishable conduct in assuming that an owner, whose rights,

⁴¹ Reproduced in Paragraph 28.

in no uncertain terms, would be adversely impacted, does not deserve to be heard before it is deprived of its preferential right for redeveloping the SR Area.

- 68.** The Appellants have also averred that the publication of the Section 3C(1) Declaration constitutes adequate notice to a landowner. They have relied upon the text of Section 3C(1),⁴² which prescribes that the order declaring the land to be an SR Area shall be published in the Official Gazette and given wide publicity in the manner specified by the SRA, amounting to a deemed notice on the owner. At its core, the argument raised is that the owner ought to be vigilant, and the publication/publicity would be an adequate measure undertaken towards informing it.
- 69.** True it is that the Gazette notification or a public notice in newspapers shall be deemed to have informed an owner regarding the Section 3C(1) Declaration. It will, however, be far-fetched and preposterous to further assume that such owner is also obligated to submit a redevelopment scheme when the said notification does not invite the owner to submit any proposal. Mere declaration of an area as an SR Area does not amount to inviting the landowner to redevelop the land, and the publication of the former cannot attract the consequences attributable to the latter.
- 70.** Learned Senior Counsel for ICM rightly contended that without an invitation to conduct surveys, etc., on the SR Area and other support by

⁴² Reproduced in Paragraph 19.

the SRA, the owner would be unable to prepare any SR Scheme, given the technical and otherwise inaccessible requirements for its preparation. As has already been discussed, SRA's Circular No. 144 mandates that an SR Scheme must be complete in all respects, including the required Annexures. Generally, this would entail that the promoter of an SR Scheme undertakes a complete survey and feasibility study for the project. The 1997 Guidelines also stipulate specific requirements for the SR Scheme, including the details of the plot area (required to be mapped by government officials), existing hutments and their type, tenement density, extent and type of reservations, amenities, and available FSI, as well as number, details, identification, and consent of the slum dwellers.

71. There is no doubt in our minds that an owner would be unable to obtain this information without the involvement of the SRA in conducting surveys and demarcation. This is especially important if the slum dwellers are not in favour of the owner's proposal. The owner cannot be left high and dry by the SRA when it comes to providing necessary support for the preparation of the SR Scheme. As such, the SRA cannot be allowed to shy away from its duty to invite the owner to conduct surveys, map the area, and conduct the necessary tests before finalising the SR Scheme and submitting it to the SRA.

72. We are also unable to accept the contention of Mr. Mehta that the requirement of a specific notice would reduce efficiency and lead to delay. The issuance of the specific notice would undoubtedly involve some

expenditure of time and effort. However, the requirement to wait for the owner to come forward within a reasonable time already exists. By ensuring that the owner is able to come forward sooner, the SRA would reduce delays in obtaining proposals for SR Schemes. All that the SRA would need to incorporate into its process is the issuance of a notice-cum-invite to the landowner.

- 73.** In fact, the record reveals that the SRA has employed this method in the past. ICM has sought to showcase two such instances, where the SRA has issued a specific notice-cum-invitation to the owner. It may be relevant to reproduce certain portions of the said communication:

“ [xxxx]

And whereas, your name appears in record of rights made available from Revenue department, the list whereof is enclosed herewith. These lands are partly and/or fully encroached by Slum Dwellers, who are residing there without having basic civil amenities and in unhygienic conditions.

And whereas you must be aware that the Government of Maharashtra has published general Slum Rehabilitation Scheme as contemplated U/sec. 3(B) of the Maharashtra Slum Areas (IC&R) Act, 1971 in respect of Mumbai city and its suburban districts and even to that effect the Official Gazette Notification has been published on 9.4.1998.

*Accordingly in keeping with the aims and objects of the Government of Maharashtra to remove the slums from the Mumbai city and its suburban districts and to make the city slum free and in view of the provisions of Section-12 (10) and 3(1) of the Maharashtra Slum Areas (IC&R) Act, 1971 and considering the provisions of Appendix-IV of amended DCR-33(10) **you are called upon to indicate whether you claim to have first preferential right for implantation of the Slum Rehabilitation Scheme on the subject property under amended DCR 33(10) as per Section 13(1) of Slum Act, and in case of claim to such a right, you are further called upon to submit documents to substantiate such claim and to submit the Slum Rehabilitation Scheme in respect of said lands under the amended Regulation 33(10) of Development Control Regulations of Greater Mumbai 1991 within 3 months from the date of receipt of this notice. The Slum Rehabilitation Authority assures you of full co-operation on its part.***

Please take note that if you fail to intimate the claim under Section 13(1) of Slum Act and/or to establish your ownership claim as contemplated U/Sect. 13(1) of Slum Act and/or to the

submit the Slum Rehabilitation Scheme within 3 months, Slum Rehabilitation Authority will be compelled to initiate action under Maharashtra Slum Areas (IC&R) Act 1971 for acquisition of the said lands for implementation of Slum Rehabilitation Scheme in the larger interest.

Note:- Attached list of survey numbers

Yours faithfully,

Sd/-

Chief Executive Officer

Slum Rehabilitation Authority”

[Sic] [Emphasis supplied]

74. The above notice clearly reveals the intention of the SRA to bring the owner’s attention to its preferential right and its duty to implement an SR Scheme in exercise of such right. It calls upon the owner to prepare and submit the SR Scheme within 3 months of receipt of the notice so as to exercise its preferential right. In fact, it also assures the owner of full cooperation from the SRA for preparing the SR Scheme.

75. Considering the dire consequences potentially suffered by the owner upon inadvertent failure to exercise its preferential right and the SRA’s previous notices, we find that the requirement for a specific notice inviting the owner to submit an SR Scheme, as prescribed in the Impugned Judgement, must be read as mandatory.

E.3 Issue III: Section 14 vis-à-vis Section 13

76. Mr. Divan contended on behalf of Tarabai Society that even if there is a preferential right in favour of the owner, it does not militate against the power of the State to acquire the land under Section 14.⁴³ In support of this contention, he heavily relied upon this Court’s decision in ***Murlidhar Teckchand Gandhi (supra)***. Contrarily, ICM submitted that

⁴³ Reproduced in Paragraph 28.

the power of the State to acquire land under Section 14 is not independent but flows from Section 13.⁴⁴

E.3.1 The State's Power to Acquire

77. In this context, we deem it appropriate to clarify at this stage that Section 14⁴⁵ empowers the State Government to acquire land if necessary to enable the SRA to carry out development under the SR Scheme. It is writ large on the text of Section 14 that the State can invoke its power to acquire the land, if it is necessitated, as per the SRA, for the implementation of a Scheme.

78. To explicate, the SRA, in line with the scheme envisaged by the Slums Act, is not only authorised but also responsible for ensuring that development is undertaken in SR Areas. In furtherance of this objective, it invites developers to submit SR Schemes. In the event no developer comes forward, the SRA can take over the development itself. To achieve this, it would undoubtedly need to utilise the land in the SR Area for various purposes, such as preparing temporary or permanent transit residences, construction work, setback area, and access roads.

79. However, when tasked with such an endeavour, the SRA may face instances where the owner is unwilling to accede to the redevelopment of the land. In such situations, as per the 1997 Guidelines and Regulation 33(10), a consent or no-objection certificate from the owner is mandatory for any proposal to be considered. By withholding such

⁴⁴ Reproduced in Paragraph 27.

⁴⁵ Reproduced in Paragraph 28.

consent, the landowner has the ability to perpetually stall the entire redevelopment.

- 80.** This instance illustrates how it may become necessary for the State to acquire land using its eminent domain for the purpose of facilitating slum rehabilitation.

E.3.2 Interplay with the Owner's Rights

- 81.** Given the above backdrop, what becomes important for us to ascertain is whether such necessity can arise before the landowner's preferential right to redevelop is extinguished.
- 82.** As already held, the owner has a preferential right over other stakeholders to develop an SR Area. If the owner then chooses to exercise this right by submitting and implementing a valid SR Scheme, issues involving rights over the property would not arise. It is, thus, not fathomable that when the landowner is implementing an SR Scheme on its own, a necessity to acquire the land could arise.
- 83.** Rather, any process to acquire the land shall have to be kept in abeyance till such time as the owner's preferential right to develop it stands extinguished. Since it is open to the owner to file its own SR Scheme within a reasonable time and the proposal of the owner, if valid and complete, would take primacy, it cannot be said that there is any legal necessity to acquire the land. If acquisition is allowed to take place at this stage, it will jeopardise the preferential right of the landowner. It is only when the owner declines to undertake development or to support

any third-party development, thereby foregoing its preferential right, that such a necessity would actually arise. There can thus be no doubt that, as long as the owner is willing to undertake development in exercise of its preferential right, the acquisition cannot proceed.

84. This can also be harmoniously read in conjunction with the requirement for a notice-cum-invitation to the owner, as set out in Section 13.⁴⁶ Until the SRA has invited the owner to submit an SR Scheme, the owner's right to develop the land cannot be said to have closed. In such a case, the subsisting preferential right cannot be frustrated or undermined by initiating the acquisition process.

85. This Court in ***Murlidhar Teckchand Gandhi (supra)*** held that Sections 13 and 14,⁴⁷ as they were couched in the original framework, are independent provisions, which can be invoked separately. Mr. Divan, on this premise, urged that a similar independent power to acquire the land was traceable under Chapter I-A also. However, such a contention would merit acceptance only if the object and scope of acquisition under Section 14, as contained in Chapter V of the original framework, are similar, if not identical, to the scope and power of acquisition conferred under the same provision when proceeding under the Chapter I-A framework. In this context, it becomes crucial to analyse the differences herein.

86. Firstly, the original framework and the cited judgement do not confer or provide any preferential right in favour of the owner to develop the land,

⁴⁶ Reproduced in Paragraph 27.

⁴⁷ Reproduced in Paragraphs 27 and 28.

whereas there exists a definite primacy of the owner's right to develop the SR Area under Chapter I-A. Secondly and more importantly, the scope of acquisition under Section 14 (within Chapter V) in the original framework⁴⁸ is much broader than that in Chapter I-A.⁴⁹ In the former, the power of acquisition is wide enough to include improvement works and specific structures, whereas in the latter, it is restricted only to the implementation of an SR Scheme. Thirdly, in ***Murlidhar Tekchand Gandhi (supra)***, this Court had no occasion to evaluate the scope of Chapter I-A, to which we are concerned in the present matter. The perceived power to proceed under Section 14 without responding to the rights and powers created under Section 13,⁵⁰ cannot, thus, be applied *mutatis mutandis* in a case of an SR Scheme to be given effect under Chapter I-A. Given these stark differences, comparing the interpretation of the original framework and the Chapter I-A framework is akin to matching apples with oranges. The High Court has thus rightly distinguished this decision in the Impugned Judgement.

- 87.** When an SR Area has been notified under Section 3C(1) of Chapter I-A⁵¹ and its development through an SR Scheme is conceptualised, whereunder there is an inbuilt preferential right of an owner to carry out redevelopment, the power of acquisition under Section 14⁵² would not operate in an independent silo; rather, it must derive meaning and effect

⁴⁸ Reproduced in Paragraph 15.

⁴⁹ Reproduced in Paragraph 28.

⁵⁰ Reproduced in Paragraph 13.

⁵¹ Reproduced in Paragraph 20.

⁵² Reproduced in Paragraph 27.

from the principles prevailing throughout the legislative scheme of Chapter I-A.

E.4 Issue IV: Validity of the Acquisition in the Instant Case

88. Having held that the owner possesses a preferential right to redevelop the SR Area; that the SRA is duty-bound to invite the owner to submit an SR Scheme; and that acquisition is not warranted until such right stands extinguished, it is now *apropos* to apply these principles to the facts of the case in hand.

E.4.1 Absence of Necessity to Acquire

89. A bare reading of the records in this case indicates that the SRA never issued a notice to ICM, thereby inviting it to submit an SR Scheme, and does not appear to have explored the opportunity for the owner to develop the Subject Land. As such, ICM's preferential right to develop the land was not extinguished.

90. Mr. Divan nevertheless contended that ICM was fully aware of the proposal to acquire the Subject Land, having appeared before the SRA on 26.08.2013 and 16.09.2013 for hearings, yet it failed to submit any SR Scheme from 2013 until 2016, when the acquisition notice was ultimately issued. He further pointed out that, despite being aware of the Section 3C(1) Declaration, ICM did not submit any SR Scheme within a reasonable time. According to him, such prolonged inaction must be treated as, and indeed amounts to, a closure of its preferential right.

91. The records, however, indicate otherwise. ICM consistently demonstrated its willingness to redevelop the land and submit an SR Scheme in accordance with Regulation 33(10). It addressed letters dated 23.08.2013 and 12.09.2013 to the SRA while the acquisition proposal was still under consideration, expressing its readiness to undertake redevelopment. It also approached the Tarabai Society by letter dated 08.10.2013, to which no response was received. Further, on 25.02.2015, ICM wrote directly to the State, reiterating its intent to redevelop the Subject Land under an SR Scheme, and on 06.05.2015, it applied to the SRA seeking directions to carry out a survey and demarcation of the land to enable such a scheme. The SRA, however, for reasons best known to it, failed to act on the owner's express willingness to proceed with the redevelopment even despite further correspondence dated 15.07.2015 and 16.07.2015 sent by the owner.

92. In light of the foregoing facts, it cannot be concluded that ICM failed to submit its scheme within the stipulated time. The record reflects that ICM was, at all times, willing to prepare and submit an SR Scheme, but neither the Tarabai Society nor the SRA extended the necessary cooperation. Where the circumstances and the conduct of the SRA and the Society themselves impeded the owner from submitting the SR Scheme, it cannot be said that the owner failed to do so within a reasonable period.

93. It naturally follows from the above that the SRA and the State exceeded their power, apparently to pre-empt the owner from undertaking

redevelopment. The acquisition of land, in such circumstances, being a colourable exercise of power, cannot be sustained.

E.4.2 Doubtful Conduct of the SRA and Tarabai Society

- 94.** That being so, a closer examination of the record discloses a matter of even greater concern, casting serious doubt on the conduct and *bona fides* of both the SRA and the Tarabai Society.
- 95.** To begin with, it is evident that the SRA's entire initiative to undertake Slum Rehabilitation on the Subject Land was driven at the behest of the Tarabai Society. Since 2006, the Society had been submitting various proposals—first for the declaration of the expanded slum as a Slum Area under the then-prevailing framework, and subsequently for the acquisition of the slum land. This process ultimately culminated in a fresh survey by the SRA and, on 11.03.2011, the declaration of the Subject Land in its entirety as an SR Area. Even thereafter, the push for acquisition was persistently advanced by the Tarabai Society through its letters dated 28.02.2012, 15.03.2012, and 05.05.2012. These circumstances beg the question—why was it so?
- 96.** The answer perhaps lies in the fact that the Tarabai Society had appointed a developer, M/s Concrete Lifestyle and Infrastructures Pvt. Ltd., even before any proposals were forwarded to the SRA. This fact alone is sufficient to draw an almost irrefutable inference that the poor slum dwellers were allured by a powerful private developer, who had a vulture's eye on the Subject Land and was seemingly affluent enough

that it could effectively influence the decision-making process within the SRA as well. The conduct of the Society, too, adds to this understanding.

- 97.** To instantiate, the Society never approached ICM after the publication of the Section 3C(1) Declaration to explore the development of the Subject Land. On the contrary, even when ICM itself reached out to the Society, no response was forthcoming. The management of the Society also seems to largely be under the influence of the private developer, who prevented it from pursuing legitimate remedies and rights available to the Society under an SR Scheme. Instead, it actively pursued every available avenue to have the State and the SRA acquire the Subject Land, thereby enabling the ill-intentioned developer to undertake an SR Scheme and reap the benefits of Regulation 33(10).
- 98.** That there was an invisible power acting behind the Society and the SRA is further evident from the fact that in some of its initial filings for the acquisition proposal, one Mr. Anuj Desai, Director of the developer company, submitted affidavits claiming to be the Constituted Attorney of ICM. However, no such Power of Attorney had been granted by ICM in favour of Mr. Desai. The High Court has also recognised such fraudulent acts of the developer in the Impugned Judgement, painting a stark picture as to how the constituents of Tarabai Society were rendered mute spectators as their rights were being used by the private developer to meet its greed.

99. The conduct of the SRA is equally, if not more, troubling and warrants a closer scrutiny. Its actions reflect a pattern of shifting positions and an approach that is arbitrary and unreasonable and lacks *bona fides*. To begin with, the SRA made no attempt to invite or facilitate the submission of an SR Scheme from ICM. Even when ICM, on its own initiative, expressed readiness to undertake surveys and demarcation and sought the SRA's assistance in that process, the authority remained unresponsive, turning a deaf ear to the owner's requests.

100. Further, internal correspondences reveal that both, the SRA and the State, accepted that the owner has a preferential right to develop the SR Area. The CEO also recommended to the State on 15.05.2015 that ICM ought to be given an opportunity to submit an SR Scheme. It is relevant to reproduce an extract of this communication:

“ [xxxx]
*On the property to be acquired, M/s Indian Cork Mills Pvt. Ltd. has been reflected as the landlords... the argument was done on behalf of the Landlords that we can submit the scheme as landlords. **As per the provisions under Section 3(b)(4)(e) of the Maharashtra Slum Area (Improvement, Clearance & Redevelopment) Act, 1971, the Landlord has a first right to develop the Slum Rehabilitation Area/Zone. Considering the provisions under the Act, it is deemed proper to give one opportunity to the landlords to submit the rehabilitation scheme before taking any final decision in the matter of land acquisition. Hence, request is made to take decision at the Government Level.***”

[Sic] [Emphasis supplied]

101. In this vein, the Deputy Secretary, Ministry of Housing, Government of Maharashtra, in its letter dated 12.10.2015, also endorsed the above-reproduced proposal.

102. The subsequent internal noting made by the District Collector (SRA) on the SRA's file in respect of the acquisition have reaffirmed the preferential right of the landowner, as may be seen from the following contents of the noting dated 05.04.2016:

“ [xxxx]
*Considering the provisions under Section 3(b)(4)(e) of the Maharashtra Slum Area (Improvement, Clearance & Redevelopment) Act, 1971, **the landlord has a first right to develop the slum rehabilitation area/zone.** Considering the provisions of the said Act, **it has been decided to grant one opportunity to the landlords in respect for submitting slum rehabilitation scheme,** before taking final decision on acquisition of land. As such, it would be proper to give an opportunity to the landlords at the authority level. Furthermore, if the abovementioned proposed action is acceptable, then to submit the said matter to the High Power Committee does not arise.”*

[Sic] [Emphasis supplied]

103. However, the very same document surprisingly reveals that the CEO took a contradictory view and stated that since one opportunity had already been granted to ICM, there was no necessity to give it one more chance to bring a development scheme. The record, thus, not only evidences an abrupt reversal of the CEO's earlier position but also discloses a complete disregard for the directive of the Deputy Secretary. Such conduct raises serious reservations as to the considerations underlying the CEO's decisions.

104. This part of the CEO's opinion, even more curiously, found favour with the State, notwithstanding the previous letter dated 12.10.2015. The State's readiness to accept the CEO's report raises suspicions about the sanctity and integrity of the administrative process involved in this case.

105. Moreover, having observed the above-quoted communications, the *bona fides* of the SRA as well as the Government are called into question when they seek to challenge, through these appeals, an interpretation that they had themselves previously accepted.

106. Such an anomalous situation does not speak well of the conduct of the private and the official actors. To permit the acquisition to stand, despite the dubious motives of Tarabai Society and its developer and the deeply suspect conduct of the SRA, would catalyse a travesty of justice.

F. CONCLUSION AND DIRECTIONS

107. For the reasons set out above, the instant appeals are dismissed. The following conclusions and directions are, accordingly, issued:

- i.** The Impugned Judgement of the High Court stands upheld;
- ii.** The *status quo* directed *vide* order dated 27.01.2017 is, consequently, vacated;
- iii.** Keeping in mind the amendment in the applicable regulations during the pendency of these Civil Appeals, liberty is granted to ICM to submit, within a period of 120 days, a fresh SR Scheme for redevelopment of the Subject Land, strictly in accordance with laws and regulations in force; and
- iv.** The SRA and the State shall process ICM's proposal as expeditiously as possible under the prescribed procedure, within a period of not more than 60 days from the date of ICM's submission.

108.All the matters and pending interlocutory applications, if any, stand disposed of in the aforementioned terms.

109.Ordered accordingly.

.....**J.**
(SURYA KANT)

.....**J.**
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
AUGUST 22, 2025