2026:BHC-OS:24397

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.4269 OF 2026

Pravinkumar Genmal Mehta ... Petitioner
versus
The Chief Executive Officer and Ors. … Respondents

WITH

WRIT PETITION NO.4270 OF 2026

Rajkumar Pravinkumar Mehta … Petitioner
versus
The Chief Executive Officer and Ors. … Respondents

WITH

WRIT PETITION (L) NO.28823 OF 2026

Arvind Pravinkumar Mehta … Petitioner
versus
The Chief Executive Officer and Ors. … Respondents

Mr. Aseem Naphade with Mr. Ashwin Tripathi, for Petitioner in WPL No.28823 of 2026.
Mr. Amogh Singh with Mr. Shailesh Pal i/by Mr. Ashwin Tripathi, for Petitioner in WP No.4269 of 2026.
Mr. Shailesh Pal with Mr. Ashwin Tripathi, for Petitioner in WP No.4270 of 2026.
Ms. Ravleen Sabharwal, for Respondent Nos.1 and 2 in WP No.4269 of 2026, WPL No.28823 of 2026 and WP No.4270 of 2026.
Mr. Mayur Khandeparkar with Mr. Santosh Pathak, Mr. Devansh Shah, Mr. Kailash Pathak i/by Law Origin, for Respondent No.3.
Mr. Vikram Garewal i/by Mr. Nimish Lotlikar, for Respondent No.4 in all matters.
Ms. Tanaya Goswami, for AGRC / Respondent No.5 in all matters.

CORAM: N.J.JAMADAR, J.

RESERVED ON : 7 SEPTEMBER 2026
PRONOUNCED ON : 18 NOVEMBER 2026

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JUDGMENT :

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.

2. These Petitions assail the legality, propriety and correctness of the common order dated 10 August 2026 passed by the Apex Grievance Redressal Committee (R5), whereby the appeals preferred by the Petitioners against the revised plan dated 26 November 2024 issued by the CEO, SRA (R1) in respect of the SR scheme Jai Hanuman SRA CHS Ltd., being implemented at Plot Nos.396, 396/1 to 66, 397, 397/1 to 13 of Village Malad, Tal. Borivali, Mumbai (the subject SR scheme), came to be dismissed.

3. As all the petitions raise an identical challenge and arise out of almost identical fact-situation, and, are, in fact, instituted by the members of the same family, the same were heard together and are being decided by this common judgment.

4. Shorn of unnecessary details, the background facts leading to these petitions, can be stated as under :

4.1 The petitioners were in the occupation of distinct commercial structures in the premises known as Dagdu Chawl, situated on the land over which the subject SR scheme is being implemented. The commercial structures of the petitioners were facing Khotkuwa Road. The subject SR scheme was initially being developed by M/s. Shah Housecon Pvt. Ltd. However, the appointment

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of M/s. Shah Housecon Pvt. Ltd., as a developer to implement the subject SR scheme came to be terminated. Eventually, Sigma Happy Homes L.L.P. (R3) came to be entrusted with the development of the subject SR scheme.

4.2 In the year 2019, the petitioners were declared eligible under the subject SR scheme. The petitioners claimed that, M/s. Shah Housecon Pvt. Ltd., the erstwhile developer, with the consent of the society of the slum dwellers (R4), had entered into agreements with each of the petitioners on 17 June 2016. It was, inter alia, agreed that each of the petitioners would be provided commercial premises facing Khotkuwa Road by way of rehabilitation. The new developer (R3) also honoured the said promise made by the erstwhile developer, and, accordingly, a plan was submitted and got approved on 4 May 2023, under which all the petitioners were provided commercial premises abutting the Khotkuwa Road.

4.3 Arvind Mehta – Petitioner in WPL No.28823 of 2026, was allotted Shop No.3 on the ground floor facing Khotkuwa Road. Rajkumar Mehta – Petitioner in WP No.4270 of 2026, was allotted shop No.2, and Pravinkumar Mehta – Petitioner in WP No.4269 of 2026, was allotted Shop No.5.

4.4 It is the grievance of the petitioners that, Respondent No.3 arbitrarily changed the proposed allotment of the commercial premises to the petitioners with malafide intent to convert the rehabilitation commercial units into free-sale assets, at the cost of the petitioners. Thus, under the revised plan dated

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26 November 2024 issued by Respondent No.1, Arvind Mehta – Petitioner in WPL No.28823 of 2026, was shifted to shop No.27 on the rear side of rehabilitation building. Likewise, Pravinkumar Mehta – Petitioner in WP No.4269 of 2026, was shifted to shop No.28 on the rear side of the rehabilitation building. Rajkumar Mehta – Petitioner in WP No.4270 of 2025 was shifted to shop No.3 instead of Shop No.2, facing Khotkuwa Road.

4.5 As the petitioners did not vacate the premises in their occupation, proceedings under Sections 33 and 38 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (the Slum Act, 1971) were initiated. An eviction order was passed on 1 January 2025. The challenge to the said order came to be negatived by the AGRC on 6 May 2025.

4.6 Pravinkumar Mehta – Petitioner in WP No.4269 of 2026 preferred WP No.3057 of 2025 before this Court. By an order dated 19 January 2026, this Court dismissed the petition. However, liberty was given to the said Petitioner to seek such remedy as may be permissible in law in regard to his grievance about the allocation of the permanent alternate accommodation as shown in the revised plan dated 26 November 2024.

4.7 Availing the said liberty, the petitioners preferred appeals before the AGRC taking exception to the revised plan to the extent it changed the allotment of the commercial units, by way of rehabilitation, as indicated above.

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4.8 By the impugned order, the AGRC was persuaded to dismiss the appeals noting, inter alia, that, when the first LOI dated 21 April 2015 was issued, there were only four slum dwellers eligible for commercial premises. Gradually the number of slum dwellers who became eligible for the allotment of the commercial premises under the subject SR scheme has significantly increased. As of the date of the order passed by the AGRC, 42 occupants of the commercial structures were declared eligible. Moreover, reliance on the development agreement dated 17 June 2016 with the erstwhile developer was misplaced, as the petitioners became eligible in the year 2019 only and when the said agreements were executed, the petitioners had no right of rehabilitation.

4.9 Being aggrieved, the petitioners have invoked the writ jurisdiction of this Court.

5. I have heard Mr. Aseem Naphade, learned Counsel for the Petitioner in WPL No.28823 of 2026, Mr. Amogh Singh, learned Counsel for the Petitioner in WP No.4269 of 2026, Mr. Shailesh Pal, learned Counsel for the Petitioner in WP no.4270 of 2026, Ms. Ravleen Sabharwal, learned Counsel for Respondent Nos.1 and 2, Mr. Mayur Khandeparkar, learned Counsel for Respondent No.3 – developer, Mr. Vikram Garewal, learned Counsel for Respondent No.4 Society and Ms. Tanaya Goswami, learned Counsel for the AGRC, at some length. With the assistance of the learned Counsel for the

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parties, I have also perused the material on record.

6. Mr. Naphade, learned Counsel for the Petitioner, mounted a two-pronged challenge to the impugned order. First, the impugned order passed by the AGRC is bereft of reasons. Amplifying the submission, Mr. Naphade would urge that, the AGRC has simply noted the pleadings and the submissions canvassed on behalf of the parties and, in the last paragraph, observed that there was substance in the claim of the society and the developer and no merit in the appeals. There was no consideration at all of the relevant issues which did bear upon the determination of the controversy. Copious recording of the submissions can never be a substitute for reasons. Therefore, the impugned order deserves to be quashed and set aside for the sole reason that it is sans reasons. To buttress this submission, Mr. Naphade placed reliance on the judgment of the Supreme Court in the case of **Commissioner of Income Tax – 1 V/s. Rashtradoot (HUF)**[1].

7. Second, the revised plan issued by Respondent No.1 not only suffers from egregious arbitrariness but was also actuated by a malafide design to cause unjust enrichment to the developer at the cost of the slum dwellers. Mr. Naphade submitted that, this Court has frowned upon the conduct of the developers in allotting the units by way of rehabilitation in an arbitrary and discriminatory manner. A developer cannot be permitted to enrich himself to

1 (2019) 5 SCC 149

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the prejudice of an eligible slum dweller. A very strong reliance was placed by Mr. Naphade on a judgment of this Court in the case of **Dhanraj Tejmal Lukad V/s. The Apex Grievance Redressal Committee and Ors. and the connected matters**[2].

8. As a second limb of the submission, Mr. Naphade would urge that, the petitioners do not assert that they have an unfettered right to choose the location of the rehabilitation units to be allotted to them. However, when a solemn promise was made by the erstwhile developer and that too with the consent of the society, as is evidenced by the Agreements dated 17 June 2016, the petitioners have a right to enforce such a promise. Mr. Naphade would further urge that, the said agreements were acted upon, plan was accordingly issued on 4 May 2023 proposing the allotment of three commercial premises on Khotkuwa Road and that implied that the new developer (R3) also honoured the promise made by the erstwhile developer, and, thus, Respondent Nos.1 to 3 had no reason to arbitrarily change the allotment of the rehabilitation units.

9. Mr. Amogh Singh, learned Counsel for the Petitioner in WP No.4269 of 2026, while supplementing the submissions of Mr. Naphade, added that since the impugned order does not record reasons for affirming the revised plan dated 26 November 2024, the Respondents cannot now be permitted to

2 OSWP(L) No.14111 of 2023 dt. 8 May 2024

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supplement those reasons by canvassing a submission to the effect that on account of the increase in the number of eligible commercial structure holders, the plan was required to be amended. It was urged that, reasons must be found in the order passed by the authority and those reasons cannot be supplemented by filing affidavit or otherwise. To bolster up this submission, Mr. Singh placed reliance on the Constitution Bench judgment of the Supreme Court in the case of **Mohinder Singh Gill and Anr. V/s. The Chief Election Commissioner and Ors.**[3] wherein it was enunciated that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of an affidavit or otherwise.

10. Mr. Pal, learned Counsel for the Petitioner in WP No.4270 of 2026 adopted the submissions canvassed by Mr. Naphade and Mr. Singh.

11. Per contra, Ms. Sabharwal, learned Counsel for Respondent Nos.1 and 2, supported the impugned order. It was urged that the petitioners do not have a vested right to have the rehabilitation units at a particular location. The SRA is enjoined to implement the SR scheme in a non-discriminatory manner. The petitioners who are the members of the same family cannot be permitted to lay claim over three commercial road-facing units to the detriment of the other members who have also become eligible for allotment of the

3 (1978) 1 SCC 405

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commercial structures. Since the number of commercial units is limited, it was necessary to revise the plan.

12. Mr. Khandeparkar, learned Counsel for Respondent No.3, would urge that the very premise of the petitions that the petitioners are entitled to road facing units on the basis of the purported agreements executed by the erstwhile developer is flawed. The petitioners were ineligible when the said agreements were purportedly executed. In any event, it was a kind of a private arrangement between the petitioners and the erstwhile developer, which cannot form a basis to claim preferential right of allotment of the units at a particular location. On first principles, Mr. Khandeparkar would urge, the insistence on a preferential allotment at a particular location is contrary to the uniform norms governing the SR scheme and the provisions of DCPR 33(10) as such preferential allotment is fraught with the risk, and entails the result, of discrimination and disparity amongst the eligible slum dwellers.

13. Mr. Khandeparkar further submitted that, the eligible slum dwellers have no vested right in the property over which SR scheme is implemented. Therefore, the slum dwellers cannot insist upon allotment of a rehabilitation unit at a particular location. Reliance was placed by Mr. Khandeparkar on a judgment of the Division Bench of this Court in the case of **Mohanish Mohan Chikhalkar and Anr. V/s. Dignity Realty and Ors.**[4] and the judgment of the

4 2022 SCC Online Bom 10753

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Supreme Court in the case of **Sayunkta Sangarsh Samiti and Anr. V/s. The State of Maharashtra and Ors.**[5]

14. Mr. Vikram Garewal, learned Counsel for Respondent No.4 Society, also supported the impugned order. It was reiterated that approximately 42 commercial structure holders have been declared eligible. There are only 18 commercial structures on the front side. Thus, the petitioners who are the members of the same family cannot insist upon the allotment of commercial units at a particular location in preference to other eligible slum dwellers. Mr. Garewal further submitted that, any relief in favour of the petitioners would prejudicially affect the rights of 39 other members who are eligible for commercial structures, and, therefore, the petitions do not deserve to be entertained as the petitioners deliberately chose not to implead those 39 members as party Respondents to these petitions. At any rate, the prayers in the petitions are contrary to the uniform allotment norms prescribed by the SRA, particularly Circular No.140 issued by the SRA.

15. I have given careful consideration to the aforesaid rival submissions canvassed across the bar. The moot question that wrenches to the fore is, whether the petitioners are entitled to the road-facing commercial units, by way of rehabilitation, under the subject SR Scheme on the count that the erstwhile developer had entered into agreements with the petitioners to allot

5 2023 INSC 1080

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road facing units and, in the 2023 plan, the petitioners were proposed to be allotted the road-facing units ?

16. Before adverting to explore an answer to the aforesaid question, it may be apposite to note few uncontroverted facts which bear upon its determination. First and foremost, it is not in dispute that the commercial structures of the petitioners were declared eligible under the certified Annexure II, in the year 2019. Thus, the eligibility of the petitioners is beyond cavil. Second, the agreements by the erstwhile developer, purportedly with the consent of the society (R4), were executed on 17 June 2016. Thus, it is incontrovertible that, when the said agreements were executed by the erstwhile developer, the petitioners were not yet declared eligible for the benefits under the subject SR Scheme. Third, in the plan issued on 4 May 2023, the Petitioners, who are the members of the same family, were proposed to be allotted Shop Nos.3, 2 and 5 facing Khotkuwa Road. In the revised plan, however, Arvind Mehta is shifted to shop No.27; Pravinkumar is shifted to shop No.28 on the rear side of the rehabilitation building, and Rajkumar has been allotted shop No.3 instead of shop No.2.

17. It also emerges from the record that shop No.2 which was initially allotted to Rajkumar has now been allotted to the allottee at Sr. No.183 in the Annexure II, who became eligible in the year 2024, and Shop No.5, which was proposed to be allotted to Pravinkumar, has now been allotted to the

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allottee at Sr. No.186 in the Annexure II, who became eligible in the year 2025. The net effect is that the front facing shops which were proposed to be allotted to the petitioners Arvind and Pravinkumar, are now allotted to the other two eligible slum dwellers, and the former are now allotted Shop Nos.27 and 28 on the rear side of the rehabilitation building. The principal grievance of the petitioners is that, the petitioners would thus get significantly lower commercial value, visibility and customer access.

18. To begin with, as a matter of principle, whether the grievance of the aforesaid nature wherein the petitioners assert that they would suffer prejudice on account of significantly lower commercial value, visibility and customer access, can be legitimately countenanced when the slum dwellers are rehabilitated under the SR scheme ?

19. That brings to the fore, the contours of the entitlement of a slum dweller in a SR Scheme. A slum dweller has generally no proprietary right, title and interest in the land over which the slum structure stands. In an overwhelming majority of cases, the character of possession of the slum dweller is that of unlawful occupation of the land owned by the State Government, Public Authority or private owner. The SR Scheme is a measure to eradicate the slums and the attendant hardships that the occupants of the slums face.

20. This Court has consistently emphasised these principles. In the case of

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Galaxy Enterprises v/s. State of Maharashtra and Ors.[6], this Court while emphasizing the necessity of the timely implementation of the SR Schemes, held that, the SR Scheme involves the right to livelihood of the slum dwellers who are living in inhuman conditions. The said right is a concomitant of the right to livelihood guaranteed under Article 21 of the Constitution.

21. Under the SR scheme, by way of rehabilitation the slum dwellers are allotted units on ownership basis to make the right to livelihood effective and meaningful. The slum dwellers, however, do not have the right to be rehabilitated at a particular location. At best, and as far as practicable, the slum dwellers ought to be rehabilitated in situ. However, the slum dwellers cannot insist that they must be rehabilitated at a particular location, in a particular building and on a particular floor as if the slum dwellers have a proprietary right and interest in the property where the SR scheme is implemented. These fundamental principles deserve to be kept in view when the allotment of the rehabilitation units is challenged by the slum dwellers.

22. The contours of the entitlement of the slum-dwellers are statutorily structured by the Slum Act, 1971 and the Development Control and Promotion Regulations for Greater Mumbai, 2034 (DCPR 2034). Section 3B(4) of the Slum Act provides that the general Slum Rehabilitation Scheme :

> "The general Slum Rehabilitation Scheme published under sub-section (3) shall be deemed Development Control

6 2019 SCC Online Bom 897

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> Regulations under the provisions of Chapter III of the Maharashtra Regional and Town Planning Act, 1966, for the said area and the provisions of the general Slum Rehabilitation Scheme shall prevail over the Development Control Regulations, published under the Maharashtra Regional and Town Planning Act, 1966."

23. Thus, the norms governing rehabilitation, including Regulation 33(10) of the Development Control and Promotion Regulations, 2034 (DCPR 2034), and the policies and circulars issued by the SRA in that behalf, have a statutory footing and bind the SRA, the developer and the slum dwellers alike.

24. As regards the nature of the benefit, Section 3B(5)(e) of the Slum Act requires the scheme to make, inter alia,

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

25. The expression "either in-situ or otherwise" is significant. The statute itself contemplates that rehabilitation may be in-situ or otherwise, and does not confer on the slum dweller a right to a tenement at a particular location. Further, the benefit is available to an "eligible slum dweller", defined in Section 2(c-b) as:

> "eligible slum dwellers" means the protected occupiers who fulfils such criteria as may be prescribed, by the State Government to be entitled for rehabilitation or

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relocation;

26. The right to rehabilitation therefore accrues upon the slum dweller satisfying the prescribed eligibility criteria and being declared eligible. The right to rehabilitation thus does not precede the declaration of eligibility.

27. Regulation 33(10) of DCPR 2034, titled “Redevelopment for Rehabilitation of Slum Dwellers”, governs redevelopment for the rehabilitation of slum dwellers. It confers a statutory right to a tenement of the prescribed description and area, and not a proprietary interest in the underlying plot or in any particular location on it, including a road-facing frontage. Clause I(a) provides that :

> “A person eligible for redevelopment scheme shall mean a protected occupier as defined in Chapter IB of Maharashtra Slums Areas (Improvement, Clearance and Redevelopment) Act, 1971 as amended time to time, hereinafter referred to as Slum Act and orders issued there under.”

A “protected occupier”, under Section 3X(c), is “an occupier of a dwelling structure who holds a photo-pass”.

28. Clause VI, titled “Right of the Hutment Dwellers”, then states in paragraph 1.3 as under :

> “All eligible hutment dwellers taking part in the SRS shall have to be rehabilitated in accordance with the

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> provisions of this Regulation. It may be in situ and in the same scheme as far as possible."

29. Paragraph 1.5 further provides that "the eligibility of a person including a transferee, under a scheme of Slum redevelopment shall be established in accordance with Chapter I B of Slum Act, and orders issued thereunder."

30. The Regulation 33(10) also prescribes how tenements are to be allotted. Paragraph 1.8 of clause VI provides :

> "Hutments dwellers in category having a differently abled person or female headed households shall be given first preference in allotment of tenements. Thereafter lots shall be drawn for allotment of tenements from the remaining tenements to the other eligible hutment-dwellers before grant of O.C.to rehab Building."

31. The only preference the Regulation recognises is, therefore, in favour of differently abled persons and female-headed households. Every other eligible slum dweller stands on the same footing and is to be allotted rehabilitation tenement by lots.

32. As regards commercial structures, clause 5.3 entitles an eligible person to built-up area for "commercial/office/shop/economic activity upto 20.90 sq.

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m. (225 sq. ft.) carpet area or actual area whichever is less" free of cost. Clause 5.4 then provides that such area "may be allowed on any side of the plot abutting 3.0 m wide pathway and deriving access from 3.0 m wide pathway/open space. Back-to-back shopping on ground floor shall also be allowed for the purpose of rehabilitation."

33. A cumulative reading of aforesaid provisions would justify an inference that the right to rehabilitation is conditioned by declaration of eligibility and the manner of rehabilitation is "in accordance with the provisions of the said Regulation 33(10)" and not in terms of any private understanding. The Regulation entitles the eligible commercial occupant to a measure of area. It does not guarantee a unit on the road-facing side, and it expressly contemplates back-to-back shopping for rehabilitation.

34. In the case of **Sirfaraz Sheikh & Ors. V/s. Gajaanan Property Developers Pvt. Ltd. and Ors.**[7], where the claims for allotment of particular rehab units were based on the settlement arrived at between the developer and the petitioner's Society, the Division Bench of this Court observed that, the entire petition proceeded on a deliberate misconception and misdescription of the petitioners' rights. The petitioners were encroachers who had set up industrial or industrial cum-commercial units. Under the Slum

7 OSWP(L) No.33012 of 2022 dt. 18 October 2022

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Act, 1971, the rights of the eligible slum dwellers were clearly defined. Those who are eligible are entitled to premises of an appropriate description (residential / commercial / industrial) in a rehab structure. They may also be entitled to certain monetary benefits including while in transit. There is no right that is given to such persons to insist that a particular rehab building be in a particular location, be of a particular configuration or of a specified footprints. The rights of slum dwellers are to be carefully distinguished from those of flat purchasers including under Sections 7 or 7A of the Maharashtra Ownership Flats Act or under the RERA. Neither of these statutes is even remotely applicable to persons who hold an entitlement under the SRA scheme.

35. In the case of **Mohanish Mohan Chikhalkar (supra),** another Division Bench of this Court, repelled the submissions premised on a claim for preferential allotment of the units in the SR scheme. The Division Bench enunciated that the slum dwellers often lose sight of the overarching factor that they are persons with no lawful entitlement to the land beneath their structures. Thus, no eligible person can claim separate or special benefits. The observations of the Division Bench in paragraph Nos.12 and 13 are material, and, hence, extracted below :

> "12. Mr. Satpute makes a submission that the compensation being offered will be inadequate and that between them SRA and the developer must find some other commercial site to be given to

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the 2nd Petitioner as temporary so that she can run her bakery from there, this being her only source of livelihood. We understand the 2nd Petitioner's anxiety and concern. We should not be mistaken for being unsympathetic to her condition but as a writ court we have to also balance all competing equities and rights. It would be exceedingly difficult to make an exception for the 2nd Petitioner which we cannot make for other slum dwellers. That would upset the entire balance of the slum rehabilitation scheme both for the existing project and for the proposed project of Bhairavnath. Every slum dweller will then ask for differential and preferential treatment. In matter after matter we have taken the stand that there has to be, above all, consistency in application of all norms and standards. All eligible persons stand on the same footing. We cannot possibly make exceptions. These 'special' benefits are without basis in law. They are based only on some wrong-headed notion of individual sympathy. We are concerned with the much broader public purpose, the interest of all the slum dwellers. Our task is to ensure that other slum dwellers, similarly placed, should not be disadvantaged by giving special privileges to a few.

13. An overarching factor that slum dwellers often lose sight of is that while they may be eking out a living perhaps for want of any other alternative and perhaps because this is the unfortunate reality of life in the city like Mumbai, they are nonetheless persons with no lawful entitlement to the land beneath their structures. What they are being offered instead is, free of cost in-situ (or, in this case as close to in-situ as is possible) extremely valuable alternative permanent accommodation on ownership. This is an asset or benefit that cannot be totally ignored. It is difficult to see how in addition to this any eligible person can claim separate or

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> special benefits. Above all, an even-handed treatment by SRA is required because otherwise the SRA project is bound to fail."
>
> (emphasis supplied)

36. Sensing the aforesaid constraints in seeking the road-facing rehabilitation units on the ground that the original slum structures of the petitioners were road facing, an endeavour was made on behalf of the Petitioners to drive home the point that the petitioners are entitled to enforcement of the contractual obligations, incurred by the erstwhile developer with the consent of the Society (R4) and assented to by the new developer (R3) in the form of the plan dated 4 May 2023.

37. At the first blush, the submission appears attractive. However, upon a close scrutiny, it does not merit acceptance both on facts and in law. On facts, as noted above, when the purported agreements were executed between the erstwhile developer and the Petitioners, the latter were not yet declared eligible for the benefits under the subject SR Scheme. Second, in law, such private arrangements executed by the erstwhile developer and the society, on the one part, and the slum dwellers, on the other part, do not command preference over the uniform allotment of the rehab units under the aegis of the SRA.

38. The aforementioned principle that, no eligible slum dweller does have a right for preferential allotment of a particular unit, renders such private

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arrangement, be it contractual, unenforceable. The allotment of the rehab units can only be in accordance with the policies and circulars issued by the SRA with a view to usher in uniform and non-discriminatory allotment of the rehab units, either by resorting to a lottery or any other method.

39. Reliance placed by Mr. Khandeparkar on the judgment of the Supreme Court in the case of **Sayunkta Sangarsh Samiti and Anr. (supra)**, appears to be well founded. In the said case, where the case of the Appellants was based on the consent terms executed pursuant to the MOU between the developer and the society, the Supreme Court enunciated that private agreements cannot be enforced in SR scheme as against the statutory mandate of the SRA. The SRA has to act in terms of its own policies and circulars without allowing private or contractual interests to prevail over public policy especially a policy which is welfare based.

40. This leads me to the challenge to the revised plan dated 26 November, 2024 on the ground that its issuance was an arbitrary exercise of the authority by Respondent No.1. In a given case, if it could be demonstrated that the plan was revised with a view to confer unjustified benefits on one person and cause prejudice to another or there was no justifiable reason at all for the revision of the plan, the challenge to the allotment of the rehab units on the score of arbitrariness cannot be thrown overboard. The Court may examine whether the revision in the plan suffers from the vice of arbitrariness, which is

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an anathema to the principle of equality.

41. In the case at hand, it becomes evident from the material on record that there has been substantial and gradual increase in the number of eligible slum dwellers for commercial structures. Initially, when the LOI was issued in the year 2015, only four commercial structures were declared eligible. The AGRC notes, as many as 42 commercial structures have been progressively declared eligible. The Regulation itself recognises that eligibility may be determined at later stages. Clause 3.12(A)(C) of Regulation 33(10) of DCPR 2034 provides that, “to achieve rehabilitation of all slum dwellers together including those declared eligible at the later stages by Competent or Appellate Authorities and for speedy implementation of the scheme the Slum Rehabilitation Scheme shall be sanctioned by taking into account all Slum dwellers as per certified slum plan, and Draft Annexure-II.” The revision of the plan to accommodate the increased number of eligible commercial structure holders is thus consistent with the Regulation. The number of road facing shops on Khotkuwa Road is limited. It was, therefore, impossible to allot all the eligible slum dwellers the road-facing shops in the rehab component. The petitioners who are the members of one and the same family cannot claim preferential right for allotment of three road-facing commercial shops. Moreover, as noted above, commercial shop Nos.2 and 5 which were initially earmarked for the petitioners, have been allotted to other eligible slum

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dwellers. It is not the case that those units have been taken over by the developer as free-sale units and the petitioners are allotted shops on the rear side of the rehab building. The change in allotment, therefore, cannot be said to be discriminatory.

42. Reliance on the decision **Dhanraj Tejmal Lukad (supra)**, does not advance the cause of the submission on behalf of the Petitioners. In that case, this Court interfered with the allotment for the reason that similarly circumstanced slum dwellers were allotted shop premises on the road side and the petitioner therein was allotted an irregularly shaped shop at the rear end having a width of 3.33 feet only. As it was a case of invidious discrimination, this Court observed that the developer cannot unjustly enrich himself at the cost of the slum-dweller. The fact situation in the case at hand is materially distinct.

43. The submission that the impugned order is bereft of reasons, assiduously canvassed by Mr. Naphade and Mr. Singh, does not carry much substance, if the order passed by the AGRC is read in its entirety and in a correct perspective. It could be urged that the discussion under the caption ‘reasons and findings’ also notes the submissions on behalf of the parties in a good measure. The articulation of the reasons cannot be said to be refined, structured and sequential. However, I find it extremely difficult to accede to the submission on behalf of the Petitioners that the impugned order is sans

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reasons. The AGRC has in terms observed that, when the initial LOI was issued, there were only four slum dwellers eligible for the commercial premises, gradually 42 eligible slum dwellers for commercial structures have been certified and the determination of the eligibility of 18 commercial occupants is pending and that necessitated the change in the allotment plan. The AGRC has also recorded that the right of rehabilitation accrues to the person only when he is declared eligible and, in the absence thereof, the agreement executed by and between the Petitioners and the erstwhile developer was of no avail. The AGRC has, thus, dealt with both main planks of the submissions on behalf of the Petitioners. Therefore, it cannot be said that the impugned order is sans reasons.

44. The conspectus of the aforesaid consideration is that the petitioners' challenge to the revised plan falls through. Resultantly, the Writ Petitions deserve to be dismissed.

45. Hence, the following order :

ORDER

(i) The Writ Petitions stand dismissed.

(ii) Rule discharged.

(iii) No costs.

(N.J.JAMADAR, J.)

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