

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

PIL WRIT PETITION NO.                      OF 2011

In the matter of the Articles 14,  
19(1)(g), 21, 226 and 300A of the  
Constitution of India;

And

In the matter of the provisions of The  
Maharashtra Slum Areas  
(Improvement, Clearance and  
Redevelopment) Act, 1971;

And

In the matter of the provisions of The  
Development Control Regulations for  
Greater Mumbai, 1991;

And

In the matter of the provisions of the  
Maharashtra Regional and Town  
Planning Act, 1966;

And

In the matter of the arbitrary, illegal, capricious, malicious actions on the part of the Government of Maharashtra in distributing large piece and parcels of land to various developers as state largesse in the guise of slum rehabilitation.

**DR. KIRIT SOMAIYA,** ]  
 an adult Indian inhabitant, residing at 9C, ]  
 Neelam Nagar, Mulund (East), Mumbai – 400 ]  
 081. ] ... **PETITIONER**

Versus

1) **THE STATE OF MAHARASHTRA,** ]  
 through its Chief Secretary, having its ]  
 office at Mantralaya, Mumbai – 400 032, ]  
 to be served through the office of the ]  
 Government Pleader, High Court (O.S.), ]  
 Bombay. ]

2) **THE PRINCIPAL SECRETARY, HOUSING ]**  
**DEVELOPMENT DEPARTMENT,** ]

having his office at Mantralaya, ]  
Mumbai-400 032. ]

- 3) **SLUM REHABILITATION AUTHORITY,** ]  
an authority appointed by the ]  
Government of Maharashtra under ]  
section 3A of the Maharashtra Slum ]  
Areas (Improvement, Clearance and ]  
Re-development) Act, 1971, through its ]  
Chief Executive officer, having its office ]  
at 5<sup>th</sup> floor, Griha Nirman Bhavan, ]  
Bandra (East), Mumbai-400 051. ]

- 4) **MUNICIPAL CORPORATION OF GREATER ]  
MUMBAI,** ]  
a Corporation established under the ]  
provisions of the Mumbai Municipal ]  
Corporation Act, 1888, through its legal ]  
department, and having its office at ]  
Mahanagarpalika Bhavan, Mumbai - ]  
400 001. ]

- 5) **UNION OF INDIA,** ]  
through the Ministry of Environment and ]  
Forest, to be served through the office ]

of the Additional Solicitor General of ]  
 India at Ayakar BHavan, 2<sup>nd</sup> Floor, ]  
 New Marine Lines, Mumbai - . ]

6) **ACKRUTI CITY LIMITED,** ]  
 a company incorporated under the ]  
 provisions of the Companies Act, 1956, ]  
 having its office at Aakruti Trade Centre, ]  
 Road No.7, Marol, MIDC, Andheri (East), ]  
 Mumbai - 400 093. ]

7) **LASHKARIA CONSTRUCTION PRIVATE ]  
 LIMITED,** ]  
 a company incorporated under the ]  
 provisions of the Companies Act, 1956, ]  
 having its office at 102, Diamond ]  
 Apartment, Near Techweb, New Link ]  
 Road, Jogeshwari (West), Mumbai - 400 ]  
 102. ]

8) **LOKHANDWALA SHELTERS INDIA PRIVATE ]  
 LIMITED,** ]  
 a company incorporated under the ]  
 provisions of the Companies Act, 1956, ]  
 having its office at 72, Gandhi Nagar, ]

- Dainik Shivener Road, Worli, Mumbai – ]  
400 018. ]
- 9) **RUCHI-PRIYA DEVELOPERS PRIVATE ]  
LIMITED,** ]  
a company incorporated under the ]  
provisions of the Companies Act, 1956, ]  
having its administrative office at 5-6, ]  
Geeta Building, Shivram Society, ]  
Devidayal Road, Mulund (West), ]  
Mumbai - 400 080. ]
- 10) **SHIVALIK VENTURES PRIVATE LIMITED,** ]  
a company incorporated under the ]  
provisions of the Companies Act, 1956, ]  
having its registered office at 246, ]  
Staney Fernandes Wadi, D.S. Balrekar ]  
Marg, Opp. Catering College, Dadar ]  
(West), Mumbai-400 028. ]
- 11) **STERLING BUILDCON PRIVATE LIMITED,** ]  
a company incorporated under the ]  
provisions of the Companies Act, 1956, ]  
having its office at Shah Arcade, Lower ]  
Ground floor, Rani Sati Marg, Malad ]

(East), Mumbai – 400 097.

] ... RESPONDENTS

TO

THE HON'BLE CHIEF JUSTICE AND THE  
OTHER HON'BLE PUISNE JUDGES OF  
THE HON'BLE HIGH COURT OF  
JUDICATURE AT BOMBAY.

THE HUMBLE PETITION OF THE  
PETITIONER ABOVE NAMED

**MOST RESPECTFULLY SHEWETH:**

**I. PARTIES:**

1. The Petitioner is an adult Indian inhabitant. The Petitioner is a former Member of Parliament of India from the city of Mumbai. The Petitioner has even earlier filed several public interest litigations espousing diverse causes. In such matters, favourable orders have been passed in favour of the public at large. In fact, in some of the cases, this Hon'ble Court has commended the efforts put in by the Petitioner. The Petitioner has also intervened in some cases involving the interest of public in general and small share holders in particular. All the aforesaid matters are enumerated in a Schedule annexed hereto and marked as **Exhibit "A"**.

2. Respondent No.1 is the State of Maharashtra. Respondent No.2 is the Principal Secretary of the Housing Development Department, Government of Maharashtra. The Housing Development Department of Government of Maharashtra is responsible for framing policies relating to housing including slum re-habilitation for the State of Maharashtra. Respondent No.3 is an authority constituted under section 3A of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 ("*the Act*"). Respondent No.3 is responsible for clearance and redevelopment of slum areas in the State of Maharashtra. Respondent No.4 is a corporation established under the Mumbai Municipal Corporation Act, 1888. Respondent No.4 is the planning authority for the city of Mumbai. Respondent No.5 is the Union of India. Respondents No.6 to 11 are companies incorporated under the provisions of the Companies Act, 1956. Respondents No.6 to 11 carry on business of construction and development of properties. The Petitioner and the Respondents have their respective addresses as mentioned in the cause title hereinabove.

**II. SUBJECT MATTER:**

3. By the Petition, the Petitioner seeks, *inter alia*, directions from this Hon'ble Court for quashing and/or setting aside the

approvals granted by Respondents No.1 and 2, under the guise of exercising power under sub-section (1) of section 3K of the Act, to the proposals for developing some large pieces and parcels of prime real estate in the city of Mumbai as "*Special Township Projects*" ("**STP**") submitted by Respondents No.6 to 11. This has been done by Respondents No.1 and 2 without even calling for any bids. The approvals have been on "*first-come-first-serve basis*" which has led to unlawful gains on the part of Respondents No.6 to 11 at the cost of the state exchequer.

### III. **FACTS:**

#### ***Section 3K of the Act***

4. It was felt that existing slums were becoming a source of danger to the health, safety and convenience of the slum dwellers and also to the surrounding areas and generally a source of nuisance to the public. In the circumstances, the Act was enacted to make better provision for Improvement and Clearance of slum areas in the State and the redevelopment thereof. The Act received the assent of the President of India on 3<sup>rd</sup> August, 1971. The assent was first published in the Maharashtra Government Gazette on 11<sup>th</sup> August, 1971.

5. The Government of Maharashtra has by a notification introduced a provision being section 3K in the Act. Sub-section (1) of section 3K of the Act is relevant. It reads as under:

*"(1) The State Government may issue to the Slum Rehabilitation Authority such general or special directions as to policy as it may think necessary or expedient for carrying out the purposes of the Act and the Slum Rehabilitation Authority shall be bound to follow and act upon such directions."*

***(emphasis supplied)***

6. A bare perusal of the aforesaid provision shows that it is meant to be used for issuing directions, whether special or general, with respect to policy matters alone. The provision is not meant to be used as a tool for grant of concessions/relaxations for benefit of particular persons in specific cases. However, contrary to the intention and purpose of incorporation of the aforesaid provision, Respondents No.1 to 3 have abused the power contained in this provision by distributing six properties of very large dimensions worth several thousands of crores as a largesse to Respondents No.6 to 11 for developing the same as special

township projects in an arbitrary, capricious and suspicious manner as more particularly set out hereinafter.

***Approval to Respondent No.6***

7. Respondent No.6, by its letter dated 8<sup>th</sup> July 2009, submitted a proposal for development of various pieces and parcels of land into an STP upon declaration thereof as a slum. The lands in respect of which Respondent No.6 has submitted its proposal and its ownership pattern is more particularly described in the proposal dated 8<sup>th</sup> July 2009 annexed hereto and marked as **Exhibit "B"**.
  
8. It is pertinent to note that a portion of the Respondent No.6's land is covered with mangroves. Some other portion thereof is part of the salt pan lands. Yet another portion thereof is owned by Respondent No.4. However, Respondent No.6 has not submitted any "*no objection*" or other clearances which are a pre-condition for development thereof. Respondent No.6 did not submit the requisite Annexures 'I', 'II', and 'III' alongwith their proposal. Respondent No.6 also did not have the mandatory consent of 70% of the slum dwellers in support of its proposal. Respondent No.6 sought for various other concessions/relaxations as more particularly set out in the proposal dated 8<sup>th</sup> July 2009.

9. Respondent No.2, by his letter dated 14<sup>th</sup> July 2009 forwarded copy of the aforesaid letter dated 8<sup>th</sup> July 2009 to the Chief Executive Officer ("**CEO**"), Respondent No.3. Respondent No.2 requested CEO, Respondent No.3 to give his comments in that regard. Copy of the letter dated 14<sup>th</sup> July 2009 is annexed hereto and marked as Exhibit 'C'.
  
10. Pursuant to the aforesaid letter dated 14<sup>th</sup> July 2009, CEO, Respondent No.3, by its letter dated 6<sup>th</sup> August 2009 submitted a detailed report in respect of the proposal submitted by Respondent No.6. It is pertinent to note that according to the report dated 6<sup>th</sup> August 2009, the lands in respect of which Respondent No.6 sought to carry out his proposal of developing a special township project admeasures about 2,69,980.98 sq.mtrs. It has about 20,000 slum structures within its boundaries. Respondent No.6 had earlier submitted nine proposals in respect of various portions of the said lands. Five other proposals had been received in respect of different pockets of the said lands. Part of the said lands is under various reservations as per the Development Plan ("**DP**") as more particularly set out therein. There are other legal hurdles for facing the proposal of Respondent No.6 including orders passed by this Hon'ble Court. Despite the same, Respondent No.3 recommended the proposal of

Respondent No.6. Respondent No.3 sought appropriate orders / directives from the Government of Maharashtra to the concerned authorities in that regard. Copy of the report dated 6<sup>th</sup> August 2009 is annexed hereto and marked as **Exhibit 'D'**.

11. The proposal dated 8<sup>th</sup> July 2009 submitted by Respondent No.6 was thereafter put up before the various departments of the Government of Maharashtra. All the difficulties facing the proposal and the concessions/relaxations sought by Respondent No.6 were pointed out to the officials of the Government of Maharashtra. The officials of the Government of Maharashtra including the Chief Minister of the State of Maharashtra approved the proposal dated 8<sup>th</sup> July 2009 submitted by Respondent No.6. It is pertinent to note that the various officials of the Government of Maharashtra did not give any reasons much less valid and cogent ones for the granting their approval. No suggestion for overcoming the difficulties faced by the proposal is even whispered in the proposal put up before the officials of the Government of Maharashtra. Copy of the approval report of the various officials of Respondent No.1 is annexed hereto and marked as **Exhibit 'E'**.

12. Thereafter, Respondent No.1, by its letter dated 26<sup>th</sup> August 2009, communicated its approval to the proposal dated 8<sup>th</sup> July 2009 submitted by Respondent No.6. It is pertinent to note that Respondent No.1 has once again issued various directions that appropriate steps be taken. However, there is not even a whisper as to what is meant by such appropriate steps. Moreover, no reasons much less any valid and/or cogent ones are given for the same. It is pertinent to note that none of the directions contained in the communication dated 26<sup>th</sup> August 2009 are in nature of policy directions as mandated by sub-Section 1 of Section 3(k) of the Act. Copy of letter dated 26<sup>th</sup> August 2009 is annexed hereto and marked as **Exhibit 'F'**.
13. Pursuant to the letter dated 26<sup>th</sup> August 2009 and SRA/ENG/2260/FN/STGL/LOI, Respondent No.3 issued a provisional LOI dated 4<sup>th</sup> November 2009 in favour of Respondent No.6. Perusal of the Provisional LOI dated 4<sup>th</sup> November 2009 shows that the same contend various suggestions in the guise of conditions given by Respondent No.3 to Respondent No.6 to overcome the difficulties pointed out by the Government of Maharashtra in the approval letter dated 26<sup>th</sup> August 2009. It is pertinent to note that this Provisional LOI was to be in existence for a limited period of 6

months. However, the Petitioner is not aware if the final LOI till date has been issued in favour of Respondent No.6. Copy of the provisional LOI dated 4<sup>th</sup> November 2009 is annexed hereto and marked as **Exhibit "G"**.

14. Mr. Gurudas Kamat, Minister of State Communications and Information Technology, Government of India has, by his letter dated 5<sup>th</sup> March 2010, communicated his misgivings about the STP approved in favour of Respondent No.6 by Respondents No.1 to 3. Gurudas Kamat has requested Respondent No.2 to withdraw the approval granted in favour of Respondent No.6 in respect of the STP for the reasons more particularly set out therein. Respondents No.1 to 3 have not taken heed of the request made by a Minister in the Government of India. Copy of the letter dated 5<sup>th</sup> March 2010 is annexed hereto and marked as **Exhibit 'H'**.

***Proposals by Respondents No.7 to 11 and the approvals granted thereon***

15. Similarly Respondents No. 7 to 11 also submitted proposals for development of STPs on various other pieces and parcels of land. The lands in respect of which the Respondents No.7 to 11 have submitted their proposal are more particularly

described in the Schedules being Exhibits "I" to "M" respectively.

16. It is pertinent to note that some portion all the pieces and parcels of lands on which Respondents No.7 to 11 seek to develop STPs is under various reservations under the DP. Similarly, schemes for re-development of portions of such lands are already pending before Respondent No.3 prior to even the date of making the proposals by Respondents No.7 to 11. A considerable portion of the lands which Respondents No.7 and 8 seek to develop as STPs is under CRZ. A large portion of the lands proposed to be developed as STPs by Respondents No.10 and 11 belongs to private owners. There is no document on the record showing that Respondents No.10 and/or 11 had acquired the same. Another portion of the land proposed to be developed as STP by Respondent No.10 belongs to the Defense Department, Central Government and yet another to the Customs Authority. Consent of the Central Government and the Customs Authority is a pre-condition for development of the same. However, the same is not obtained. Approvals have been granted first and such consents have to be obtained later.
17. Respondents No.1 and 2 have granted/communicated their approval to the proposals of Respondents No.7 to 11 by their

letters dated 6<sup>th</sup> February, 2010, 6<sup>th</sup> July, 2009, 10<sup>th</sup> July, 2009, 17<sup>th</sup> April, 2008 and 9<sup>th</sup> February, 2010 respectively. Respondents No.1 and 2 have issued similar approvals / directions in respect of the proposals for STP submitted by Respondents No.7 to 11. Copies of the proposals dated 6<sup>th</sup> February, 2010, 6<sup>th</sup> July, 2009, 10<sup>th</sup> July, 2009, 17<sup>th</sup> April, 2008 and 9<sup>th</sup> February, 2010 are annexed hereto and marked as **Exhibits 'N' to 'R'** respectively and the approvals/directives dated 11<sup>th</sup> November, 2010, 14<sup>th</sup> August, 2010, 26<sup>th</sup> August, 2009, 29<sup>th</sup> August, 2008 and 8<sup>th</sup> October, 2010 are annexed hereto and marked as **Exhibits 'S' to 'W'** respectively.

18. Pursuant to the approvals granted by Respondents No.1 and 2 to the proposals of Respondents No.7 to 11, Respondent No.3 has granted:

- (i) LOI dated 23<sup>rd</sup> November 2010 in favour of Respondent No.7;
- (ii) Provisional LOI dated 11<sup>th</sup> December 2009 in favour of Respondent No.9;
- (iii) LOI dated 7<sup>th</sup> December 2010 in favour of Respondent No.11.

From the records of Respondent No.3, it is not clear that whether any LOI/provisional LOI has been granted in favour of Respondent No.10. So far as regards Respondent No.8 is concerned, LOI had been granted in favour of Respondent No.8 with respect to its proposal in the case of one of the society's whose land forms a part of the land on which its proposed STP is to be developed. Copies of the Provisional LOI dated 23<sup>rd</sup> November, 2010, 20<sup>th</sup> June, 2009 11<sup>th</sup> December, 2009, 20<sup>th</sup> August, 2009 and 7<sup>th</sup> December 2010 are annexed hereto and marked as **Exhibits "X" to "A-2"** respectively.

***Fraud played by Respondents No.1 to 3 and Respondents No.6 to 11***

19. It is pertinent to note that in all about 2,35,00,000 sq. ft. of prime real estate has been distributed by Respondents No.1 to 3 in favour of Respondents No.6 to 11 on "*first-come-first serve basis*". Respondents No.1 to 3 did not call for any public tenders or competitive bids before granting approvals. There is no transparency whatsoever in allotment of these lands to Respondents No.6 to 11. The financial stakes involved in this entire scheme are summarized by the Petitioner in six schedules annexed hereto and collectively marked as **Exhibits "A-3.**

20. Moreover, the unholy haste in which these allotments have been done suggests that there is more to these allotments than what meets the eye. These allotments appear to have been made for extraneous consideration. This becomes clear from the fact that approvals in favour of Respondents No.7 and 11 were given by the then care-taker Chief Minister of the state on 11<sup>th</sup> November 2010 morning. On the evening of 11<sup>th</sup> November 2010, the present Chief Minister was appointed. There does not exist any valid and/or cogent reason for such unholy haste. The conduct becomes even more suspicious considering the fact that there exists two letters communicating the approval granted in favour of Respondent No.7. On one of them, the date 11<sup>th</sup> November 2010 is written in hand and on the other the same is typewritten.
21. The largesse granted by Respondents No.1 to 3 in favour of Respondents No.6 to 11 is neither reasonable nor in the public interest. The manner in which it has been granted is arbitrary, capricious and dubious to say the least. They certainly do not inspire public confidence. There is no uniformity in the manner in which approvals have been granted. Respondents No.1 to 3 have acted in a manner which would benefit Respondents No.6 to 11 at the cost of the state.

22. A government, unlike ordinary individuals, is not free in selecting recipients for its largesse. It cannot choose to deal with any person in its absolute and unfettered discretion. Grant of largesse involving public interest must be by public auction with open participation and not on the basis of applications by interested parties. While distributing public properties the state must give equal opportunity to all concerned. The endeavour must be to fetch the best available terms in public interest. There must be fair play in action.
23. Respondents No.1 to 3 have acted contrary to all canons of fair play and public action. Respondents No.1 to 3 have acted in a manner contrary to public interest. Respondents No.1 to 3 only seek to benefit Respondents No.6 to 11. The actions of Respondents No.1 to 3 have been made for extraneous considerations. Respondents No.1 to 3 have an oblique.

IV. **GROUND:**

24. Aggrieved by such arbitrary, capricious and mala fide exercise of the power, if any, by Respondents No.1 to 3, the Petitioners have no option but to invoke the extra-ordinary jurisdiction of this Hon'ble

Court under Article 226 of the Constitution of India by way of present public interest litigation Writ Petition on the following, amongst other, grounds which are without prejudice and in the alternative to one another:-

**Grounds:-**

- a) that Respondents No.1 and 2 have deliberately misconstrued the provisions of section 3K of the Act;
- b) that under section 3K of the Act, Respondents No.1 and 2 are empowered to issue directions, whether general or special, only in respect of some policy matter;
- c) that section 3K of the Act is not meant to subserve the provisions of the Act to the whims and fancies of the executive;
- d) that sub-section (1) of section 3K of the Act does not envisage Respondents No.1 and 2 passing directions/granting approvals of the nature as set out hereinabove;
- e) that Respondents No.1 and/or 2 have not issued any direction of the nature contemplated under sub-section (1) of section 3K of the Act. In the

circumstances, the LOI/provisional LOI granted and/or sought to be granted by Respondent No.3 are illegal, unlawful and unauthorized;

- f) that the approvals granted/directions issued by Respondents No.1 and 2 and the LOI/provisional LOI granted and/or sought to be granted by Respondent No.3 on the basis thereof are illegal, arbitrary, bad in law;
- g) that the grounds on which approvals have been granted/directions have been issued by Respondents No.1 and 2 and the LOI/provisional LOI have been granted and/or sought to be granted by Respondent No.3 are false and frivolous;
- h) that the approvals granted/directions issued by Respondents No.1 and 2 and the LOI/provisional LOI granted and/or sought to be granted by Respondent No.3 on the basis thereof are a colourable exercise of power on the part of Respondents No.1 and 2;
- i) that Respondents No.1 and 2 have no power and/or authority to exercise the power under section 3K of the Act for granting approvals/issuing directions appointing developers and giving concessions and relaxations to

them on a case to case basis. This act of Respondents No.1 and 2 is wrongful to say the least;

- j) that Respondents No.1 and 2 have intentionally and without any just cause/excuse issued the directions and/or granted the approvals. The entire approach of Respondents No.1 and 2 is aimed to further the interest of Respondents No.6 to 11;
- k) that Respondents No.1 to 3 are public authorities. Respondents No.1 to 3 are under an obligation to act fairly. However, Respondents No.1 to 3 have acted in utter disregard of their statutory obligations;
- l) that Respondents No.1 to 3 had no probable much less reasonable cause to grant approvals /issue directions and grant and/or seek to grant LOI/provisional LOI granted respectively;
- m) that Respondents No.1 to 3 have acted with an oblique/indirect object;
- n) that Respondents No. to 3 have exercised their power for purposes foreign to those for which law had intended;

- o) that Respondents No.1 to 3 have consciously violated the law;
- p) that the actions of Respondents No.1 to 3 have caused prejudice to the public in general and the slum-dwellers occupying the various lands in respect of which the STPs are proposed in particular;
- q) that the actions of Respondents No.1 to 3 are illegal, bad in law, malicious and suffer from complete non application of mind;
- r) that the approvals granted/directions issued and LOI/provisional LOI granted/sought to be granted are an abuse of process of powers conferred upon Respondents No.1 to 3 respectively;
- s) that the approvals granted/directions issued by Respondents No.1 and 2 show that there is no uniformity of policy for such projects. Such power, if unchecked, which lead to chaos. This will in turn create opportunities for abuse of power for extraneous purposes;
- t) that the approvals granted/directions issued by Respondents No.1 and 2 and the LOI/provisional LOI

issued by Respondent No.3 smacks of nepotism. Nepotism is an anathema to rule of law. In the circumstances, the same are required to be quashed and/or set aside;

- u) that Respondent No.1 being a State cannot adopt policy of first come first serve basis in allotting projects of such magnitude;
- v) that it is a settled position in law that state property cannot be distribute as largesse at the whims and fancies of the executive;
- w) that the proper course of action for Respondents No.1 and 2 was to call for competitive bids akin to those called for while awarding the Dharavi project;
- x) that Respondents No.1 and 2 ought to have first prepared a master plan for development of the lands as STPs. Such a master plan ought to have been widely published. Comments, suggestions, objections of the residents of such lands and persons residing in vicinity thereof ought to have been invited. Only upon finalization of the master plan, Respondents No.1 and 2 ought to have appointed any developer and that too

only after inviting competitive bids from the reputed developers for the same;

y) that the actions of Respondents No.1 to 3 has deprived the state exchequer of large sums of money;

z) that the actions of Respondents No.1 to 3 have enabled Respondents No.6 to 11 to make unlawful gains at the cost of the public at large;

aa) that Respondents No.1 to 3 did not consider much less verify the financial strength/capability of Respondents No.6 to 11 to carry out the projects awarded to them. In the present case, where thousands of crores of the public money is at stake, no such direction ought to have been passed without such basic verification having being carried out first;

bb) that in most cases, Respondents No.1 to 3 have not put in any safeguards to ensure that the control and management of Respondents No.6 to 11 does not change before completion of the STPs. The Petitioner believes that Respondent No.7 has already changed its constitution;

- cc) that Respondents No.1 and 2 have rendered the mandatory provision of obtaining consent of 70 % of the slum-dwellers nugatory;
- dd) that upon granting of approvals/issuing of directions of the nature done in the present case, the slum-dwellers have been presented with a *fait accompli*. They have no choice but to grant consent to the developers appointed by Respondents No.1 to 3 at the terms and conditions put forth by Respondents No.6 to 11;
- ee) that such actions on the part of Respondents No.1 to 3 has rendered the slum-dwellers vulnerable to Respondents No.6 to 11;
- ff) that the approvals/directions of Respondents No.1 and 2 is nothing but an attempt to camouflage the inability of Respondents No.6 to 11 to obtain consent of 70 % of the slum-dwellers;
- gg) that such actions on the part of Respondents No.1 to 3 may create law and order situation. Disgruntled slum-dwellers are wont to resort to violence. Respondent No.7 and his problems with the slum-dwellers occupying premises on the land which it seeks to develop is a case in point;

- hh) that Respondents No.1 to 3 have misconstrued Maharashtra Housing Policy of 23<sup>rd</sup> July 2007 and National Housing & Habitat Policy of 2007 with oblique motives;
- ii) several lands in respect of which the approvals have been granted are less than 40 hectares in size. The lands of this size cannot be used for STPs;
- jj) that the approvals granted/directions issued by Respondents No.1 and 2 and the LOI/provisional LOI granted/sought to be granted by Respondent No.3 seek to overreach orders passed by this Hon'ble Court in various matters.

25. In the circumstances, it is just, equitable, necessary, convenient, expedient and in the interest of justice that:

- (i) this Hon'ble Court be pleased to issue a writ of certiorari and/or a writ in the nature of certiorari and/or any other appropriate writ, order and/or direction calling for the records and proceedings in respect of the approvals dated 26<sup>th</sup> September, 2009, 11<sup>th</sup> November, 2010, 14<sup>th</sup> August, 2010, 26<sup>th</sup> August, 2009, 29<sup>th</sup> August, 2008 and 8<sup>th</sup> October, 2010 and upon considering the

legality, propriety and validity of LOI dated 4<sup>th</sup> November, 2009 23<sup>rd</sup> November, 2010, 20<sup>th</sup> June, 2009 11<sup>th</sup> December, 2009, 20<sup>th</sup> August, 2009 and 7<sup>th</sup> December 2010 quash and/or set aside the same;

- (ii) this Hon'ble Court be pleased to issue a writ of mandamus and/or a writ in the nature of mandamus and/or any other appropriate writ, order and/or direction commanding Respondents No.1 to 3 or any one or more of them to invite public biddings for development of all those pieces and parcels of lands more particularly described in the Schedules being Exhibits "" and "" to "" hereto

26. On the basis of the approvals / provisional LOIs granted by Respondents No.1 to 3 in favour of Respondents No.6 to 11, Respondents No.6 to 11 have started taking steps for executing the proposed STPs. In several cases, there are reports that Respondents No.6 to 11 have resorted to use of anti-social elements to coerce slum dwellers residing the land in respect of which approvals for STPs have been granted to give their consent to the proposed STPs. In some cases, Respondents No.6 to 11 and/or some of them have started forcibly vacating slum dwellers from the premises in their occupation. In the circumstances, it is just, equitable,

necessary, convenient, expedient and in the interest of justice that pending the hearing and final disposal of the Petition, this Hon'ble Court be pleased to:

- (i) stay the effect, operation, execution and implementation, of the approvals dated 26<sup>th</sup> September, 2009, 11<sup>th</sup> November, 2010, 14<sup>th</sup> August, 2010, 26<sup>th</sup> August, 2009, 29<sup>th</sup> August, 2008 and 8<sup>th</sup> October, 2010 (being Exhibits "S" to "W" hereto) and upon considering the legality, propriety and validity of LOI dated 4<sup>th</sup> November, 2009 23<sup>rd</sup> November, 2010, 20<sup>th</sup> June, 2009 11<sup>th</sup> December, 2009, 20<sup>th</sup> August, 2009 and 7<sup>th</sup> December 2010 (being Exhibits "X" to "A- 2" hereto);
- (ii) grant a temporary order and injunction restraining Respondents No.6 to 11 and/or any one or more of them, their respective directors, officers, servants, agents and/or any person claiming by, through and/or under them or any one or more of them from in any manner acting and/or relying upon the approvals dated 26<sup>th</sup> September, 2009, 11<sup>th</sup> November, 2010, 14<sup>th</sup> August, 2010, 26<sup>th</sup> August, 2009, 29<sup>th</sup> August, 2008 and 8<sup>th</sup> October, 2010 (being Exhibits "S" to "W" hereto) and upon considering the legality, propriety and validity of

LOI dated 4<sup>th</sup> November, 2009 23<sup>rd</sup> November, 2010, 20<sup>th</sup> June, 2009 11<sup>th</sup> December, 2009, 20<sup>th</sup> August, 2009 and 7<sup>th</sup> December 2010 (being Exhibits "X" to "A- 2" hereto);

- (iii) grant a temporary order and injunction restraining Respondents No.1 and 2 and/or any one or more of them, their respective officers, servants, agents and/or any person claiming by, through and/or under them or any one or more of them from in any manner exercising power under sub-Section 1 of Section 3K of the Act and grant approval and/or concessions and/or relaxations in the nature of approvals dated 26<sup>th</sup> September, 2009, 11<sup>th</sup> November, 2010, 14<sup>th</sup> August, 2010, 26<sup>th</sup> August, 2009, 29<sup>th</sup> August, 2008 and 8<sup>th</sup> October, 2010 (being Exhibits "S" to "W" hereto)
  
- (iv) grant a mandatory order and direction directing Respondents No.1 to 3 and/or any one or more of them, their respective officers, servants, agents and/or any person claiming by, through and/or under them or any one or more of them to produce all the papers and proceedings pertaining to the proposals dated dated 8<sup>th</sup> July, 2009, 6<sup>th</sup> February, 2010, 6<sup>th</sup> July, 2009, 10<sup>th</sup> July, 2009, 17<sup>th</sup> April, 2008 and 9<sup>th</sup> February, 2010

(being Exhibits "N" to "R" hereto); the approvals dated approvals dated 26<sup>th</sup> September, 2009, 11<sup>th</sup> November, 2010, 14<sup>th</sup> August, 2010, 26<sup>th</sup> August, 2009, 29<sup>th</sup> August, 2008 and 8<sup>th</sup> October, 2010 (being Exhibits "S" to "W" hereto) and upon considering the legality, propriety and validity of LOI dated 4<sup>th</sup> November, 2009 23<sup>rd</sup> November, 2010, 20<sup>th</sup> June, 2009 11<sup>th</sup> December, 2009, 20<sup>th</sup> August, 2009 and 7<sup>th</sup> December 2010 (being Exhibits "X" to "A-2" hereto);

27. Unless the reliefs as prayed for are granted, grave and irreparable, harm, loss, injury and/or prejudice will be caused to the public at large and the various slum dwellers residing on the lands in respect of which approval / provisional LOIs for the proposed STPs has been granted. On the contrary, if the reliefs as prayed for are granted, no prejudice whatsoever will be caused to the Respondents. The balance of convenience lies only in favour of the Petitioner.
28. The Petitioner have no other alternative, adequate and efficacious remedy regarding the subject matter of this Petition, other than to approach this Hon'ble Court under Article 226 of the Constitution of India for the reliefs sought

herein. The reliefs prayed for herein if granted, will suffice to meet the ends of justice.

29. The present Petition is a public interest litigation. The Petitioner has no personal interest whatsoever in the subject matter of the Petition.
30. The Petitioners have not filed any other Petition regarding the subject matter of the present Petition either in this Hon'ble Court or any other Hon'ble High Court or in the Hon'ble Supreme Court of India.
31. The Respondents have their addresses at Mumbai. The entire cause of action has arisen at Mumbai, i.e., within the jurisdiction of this Hon'ble Court. This Hon'ble Court, therefore, has jurisdiction to entertain and try the present Petition.
32. The Petition does not suffer from the vice of delay and laches.
33. The Petitioner has paid the fixed court fees of Rs.\_\_\_\_\_/-.
34. The Petitioner will rely upon documents, a list whereof is annexed hereto.

The Petitioner, therefore, prays:

- (v) that this Hon'ble Court be pleased to issue a writ of certiorari and/or a writ in the nature of certiorari and/or

any other appropriate writ, order and/or direction calling for the records and proceedings in respect of the approvals dated 26<sup>th</sup> September, 2009, 11<sup>th</sup> November, 2010, 14<sup>th</sup> August, 2010, 26<sup>th</sup> August, 2009, 29<sup>th</sup> August, 2008 and 8<sup>th</sup> October, 2010 (being Exhibits "S" to "W" hereto) and upon considering the legality, propriety and validity of LOI dated 4<sup>th</sup> November, 2009 23<sup>rd</sup> November, 2010, 20<sup>th</sup> June, 2009 11<sup>th</sup> December, 2009, 20<sup>th</sup> August, 2009 and 7<sup>th</sup> December 2010 (being Exhibits "X" to "A- 2" hereto) quash and/or set aside the same;

- (a) that this Hon'ble Court be pleased to issue a writ of mandamus and/or a writ in the nature of mandamus and/or any other appropriate writ, order and/or direction commanding Respondents No.1 to 3 or any one or more of them to invite public biddings for development of all those pieces and parcels of lands;
- (b) that pending the hearing and final disposal of the Petition, this Hon'ble Court be pleased to:
  - (i) stay the effect, operation, execution and implementation, of the approvals dated 26<sup>th</sup> September, 2009, 11<sup>th</sup> November, 2010, 14<sup>th</sup> August,

2010, 26<sup>th</sup> August, 2009, 29<sup>th</sup> August, 2008 and 8<sup>th</sup> October, 2010 (being Exhibits "S" to "W" hereto) and upon considering the legality, propriety and validity of LOI dated 4<sup>th</sup> November, 2009 23<sup>rd</sup> November, 2010, 20<sup>th</sup> June, 2009 11<sup>th</sup> December, 2009, 20<sup>th</sup> August, 2009 and 7<sup>th</sup> December 2010 (being Exhibits "X" to "A- 2" hereto);

- (vi) grant a temporary order and injunction restraining Respondents No.6 to 11 and/or any one or more of them, their respective directors, officers, servants, agents and/or any person claiming by, through and/or under them or any one or more of them from in any manner acting and/or relying upon the approvals dated 26<sup>th</sup> September, 2009, 11<sup>th</sup> November, 2010, 14<sup>th</sup> August, 2010, 26<sup>th</sup> August, 2009, 29<sup>th</sup> August, 2008 and 8<sup>th</sup> October, 2010 (being Exhibits "S" to "W" hereto) and upon considering the legality, propriety and validity of LOI dated 4<sup>th</sup> November, 2009 23<sup>rd</sup> November, 2010, 20<sup>th</sup> June, 2009 11<sup>th</sup> December, 2009, 20<sup>th</sup> August, 2009 and 7<sup>th</sup> December 2010 (being Exhibits "X" to "A- 2" hereto);
- (vii) grant a temporary order and injunction restraining Respondents No.1 and 2 and/or any one or more of

them, their respective officers, servants, agents and/or any person claiming by, through and/or under them or any one or more of them from in any manner exercising power under sub-Section 1 of Section 3K of the Act and grant approval and/or concessions and/or relaxations in the nature of the approvals dated 26<sup>th</sup> September, 2009, 11<sup>th</sup> November, 2010, 14<sup>th</sup> August, 2010, 26<sup>th</sup> August, 2009, 29<sup>th</sup> August, 2008 and 8<sup>th</sup> October, 2010 (being Exhibits "S" to "W" hereto)

- (viii) grant a mandatory order and direction directing Respondents No.1 to 3 and/or any one or more of them, their respective officers, servants, agents and/or any person claiming by, through and/or under them or any one or more of them to produce all the papers and proceedings pertaining to the proposals dated dated 8<sup>th</sup> July, 2009, 6<sup>th</sup> February, 2010, 6<sup>th</sup> July, 2009, 10<sup>th</sup> July, 2009, 17<sup>th</sup> April, 2008 and 9<sup>th</sup> February, 2010 (being Exhibits "N" to "R" hereto); the approvals dated 26<sup>th</sup> September, 2009, 11<sup>th</sup> November, 2010, 14<sup>th</sup> August, 2010, 26<sup>th</sup> August, 2009, 29<sup>th</sup> August, 2008 and 8<sup>th</sup> October, 2010 (being Exhibits "S" to "W" hereto)and upon considering the legality, propriety and validity of LOI dated 4<sup>th</sup> November, 2009 23<sup>rd</sup> November, 2010,

20<sup>th</sup> June, 2009 11<sup>th</sup> December, 2009, 20<sup>th</sup> August, 2009  
and 7<sup>th</sup> December 2010 (being Exhibits "X" to "A- 2"  
hereto);

- (c) for ad-interim reliefs in terms of prayer clauses (b)(i) to (b)(iv)  
above;
- (d) for costs; and
- (e) for such further and other reliefs as this Hon'ble Court may  
deem fit in the nature and circumstances of the present case.

Dated this                      day of March 2011

Petition drawn by:  
For M/s. Dhruve Liladhar & Co.

Dr. Kirit Somaiya

Partner  
Advocates for the Petitioner

( Petitioner)

**VERIFICATION**

I, Dr. Kirit Somaiya, an adult, Indian Inhabitant, the Petitioner  
abovenamed, do hereby solemnly declare and state that what is  
stated in paragraphs No.\_\_\_\_ to \_\_\_\_ above is true to my own  
knowledge and what is stated in remaining paragraphs No.\_\_\_\_ to

\_\_\_\_ is based on information and belief and I believe the same to be true.

Solemnly declared at Mumbai )  
this    day of March 2011        )

Before me:

For M/s. Dhruve Liladhar & Co.

Partner  
Advocates for the Petitioner