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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11851 OF 2018

Saeed Shah Mohd Khan ... Petitioner

Vs.

1. The State of Maharashtra
2. Grievance Redressal Committee
3. Additional Collector (Cnc/Rem) - Eastern Suburbs
4. Deputy Collector (Enc/Rem) and the Competent Authority ... Respondents

ATUL GANESH KULKARNI
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Date: 2026.10.09 12:38:18 +0530

Mr. Raj K. Awasthi with Ms. Bushra Sayed and Mr. Yash Mishra i/by Mr. Nitesh Acharya for the Petitioner.

Ms. Aloka A. Nadkarni, AGP for Respondent Nos.1 to 4-State.

CORAM : AMIT BORKAR, J.

RESERVED ON : OCTOBER 5, 2026.

PRONOUNCED ON : OCTOBER 9, 2026

JUDGMENT:

1. By the Writ Petition filed under Articles 226 and 227 of the Constitution of India, the Petitioner challenges the legality, validity and correctness of the order dated 19 September 2026 passed by the Grievance Redressal Committee in Appeal No. 925 of 2018. By

the said order, the Grievance Redressal Committee confirmed the original order dated 11 January 2018 passed by the Competent Authority under Section 3Z-1 of the Maharashtra Slum Areas (Improvement, Clearance, and Redevelopment) Act, 1971. The said order of the Competent Authority was earlier challenged before the Appellate Authority in Appeal No. 10 of 2018. The appeal was dismissed by order dated 25 May 2018.

2. According to the Petitioner, the facts relevant for deciding the Writ Petition are as follows. The premises of the Petitioner are situated in a census slum area bearing Survey No. 8, Village Kurla, Taluka Kurla, Mumbai Suburban District. The land is owned by the State Government through the Collector, Mumbai Suburban District. The premises in question are being used for commercial purposes. The Petitioner is carrying on the business of hotel and lodging in the name and style of Hotel Guest Inn Residency. According to the Petitioner, there is no unauthorised construction or encroachment made after 1 January 2000. As a precaution, the Petitioner submitted an application dated 17 July 2018 before the Competent Authority seeking regularisation of the said commercial premises and undertaking to pay such charges as may be required for that purpose.

3. Mr. Awasthi, learned Advocate for the Petitioner, submitted that it is not the case of the Respondents that the Petitioner constructed any part of the premises after 1 January 2000. According to him, Respondent No. 4 has filed three affidavits and has had sufficient opportunity to state his case on oath. However, even in those affidavits, there is no clear statement that any part of

the structure was constructed after 1 January 2000. According to the learned Advocate, such a finding or satisfaction is necessary under Section 3Z-1(1) of the Maharashtra Slum Areas (Improvement, Clearance, and Redevelopment) Act, 1971, hereinafter referred to as "the Slum Act", before an order for demolition can be passed.

4. Mr. Awasthi submitted that the impugned order dated 11 January 2018 does not record any satisfaction that any construction was made after 1 January 2000. He submitted that the limit of 500 sq. ft. relied upon by the Respondents is found in Government Resolution No. Gavasu-1220/Pra.Kra.204(1)/Zopasu-1 dated 11 July 2001 and not in the Slum Act. He submitted that the State Government has not framed any rules under Section 46 for the purposes of Sections 3X and 3Y(1) of the Slum Act. According to him, the four structures had become one structure before the year 1998. He relied upon the Government Resolution dated 16 May 2015 and submitted that the protection available under that Resolution applies to the structure in question.

5. Mr. Awasthi submitted that the Petitioner has never claimed ownership of the land. Paragraph 3 of the Petition states that the land belongs to the State Government through the Collector, Mumbai Suburban District. According to him, the Petitioner claims only the status of a protected occupier and does not claim title to the land. Therefore, the question in the Petition is not as to who owns the land. The question is whether the Competent Authority had recorded the necessary satisfaction that any part of the structure was constructed after 1 January 2000. According to the

learned Advocate, Respondent No. 4 has not answered this question. He submitted that the statement now made by the Respondent that the land "is not a declared slum area/slum scheme" is contrary to the order passed by the Competent Authority. The impugned order was passed under Sections 3Z-1 and 3Z-2 of the Slum Act. These provisions form part of Chapter I-B of the Slum Act. The office of the Respondent issued the Petitioner's photo pass under Section 3Y. In paragraph 5 of the Reply dated 10 August 2026, the Respondent has described the document as a “Slum Identity Card (Photo-pass)”. It was submitted that if the land is really outside the operation of the Slum Act, the Competent Authority could not have exercised jurisdiction under the Slum Act. According to the Petitioner, the Respondent cannot rely upon the Slum Act for passing the order and at the same time contend that the Slum Act has no application to the land. The learned Advocate submitted that, in any event, paragraph 3 of the Petition states that the premises are situated in a census slum on Survey No. 8 of Village Kurla. The Grievance Redressal Committee has described the property as CTS No. 213/4 of Village Kurla. The Government Resolution dated 16 May 2015 applies to census slums. The Respondent did not deny in his Reply dated 10 August 2026 that the premises are situated in a census slum. Such a contention, according to the Petitioner, cannot be raised for the first time in the third affidavit. The expression "Census Slum" is defined under Section 2(1b) of the Slum Act, 1971. According to the Petitioner, the structure standing in such census slum is entitled to the protection available under the Slum Act.

6. Mr. Awasthi submitted that the documents described by the Respondent as “Photo passes 2000 (No. 730460 dated 19 August 2000 and 0698019 dated 17 July 2000)” are not photo passes. According to him, these documents are receipts relating to the census survey conducted in the year 2000. The Respondent has described document No. 0698019 as a “Zopadpati Gana Pavti” in paragraph 4 of his affidavit. Receipt No. 0730460 dated 19 August 2000 stands in the name of Mozzam Ali Shah Mohd Khan, who was one of the four occupants. The Petitioner submitted that he has taken this position from the beginning. According to him, the receipts were produced only to show that the four structures were existing at the site when the survey was conducted in the year 2000. He never claimed receipt No. 0730460 as his own document.

7. Mr. Awasthi submitted that the so-called admission relied upon by the Respondents is that four adjoining structures belonging to four different persons had become one structure before the year 1998 and that the hotel and lodging business had been carried on in that structure since then. According to him, this cannot be treated as an admission that the Petitioner constructed anything after 1 January 2000. On the contrary, according to the Petitioner, the statement shows that the structure was in existence before that date. He submitted that the Grievance Redressal Committee recorded this case in paragraph 5 of its order dated 19 September 2018. The learned Advocate submitted that the statement of the Respondent referring to "height above 25 square feet" shows that the affidavit has not been prepared with proper

care. He submitted that the Respondent has alleged that the Petitioner breached the conditions of the photo pass by “not to transfer and not to change the user”. According to the Petitioner, no authority issued any notice to him for such alleged breach during the last twenty years. He submitted that such alleged breach is not a ground for demolition under Section 3Z-1. According to him, Section 3Z-1 is concerned with construction made after 1 January 2000. The learned Advocate submitted that there has been no change in the nature of use of the premises. The Petitioner's photo pass No. 30NELL000491 records the use as (commercial). Hotel and lodging is a commercial use. He relied upon the Government Resolution dated 11 July 2001, which, according to him, classifies the use of premises into three categories, namely residential, commercial or industrial, and mixed use. According to the Petitioner, where the premises continue to be used for commercial purposes, merely changing the nature of the commercial activity does not amount to a change from commercial use.

8. As regards the allegation of transfer, Mr. Awasthi submitted that the same Government Resolution provides for payment of transfer charges. Paragraph 9 of the said Resolution provides for a transfer fee of Rs. 10,000/- for a commercial structure of 225 sq. ft. and Rs. 80/- per sq. ft. for additional area. According to him, the Government policy allows transfer of a hutment on payment of the prescribed charges. He submitted that the statement in paragraph 16 of the Respondent's affidavit that an occupier can never take over the structure of another photo pass holder is

contrary to the Government Resolution relied upon by the Respondent himself. In any event, according to the Petitioner, transfer of a structure is different from construction of a structure. Section 3Z-1 is concerned with construction after 1 January 2000 and not merely with transfer.

9. Mr. Awasthi submitted that he accepts the Respondent's description of Sections 3X(c) and 3Y(1) to (4), as those provisions are part of the Act produced by the Petitioner as Exhibit RJ-2. However, according to him, the Respondent has drawn an incorrect conclusion in paragraph 10 by stating that “the photo-passes were issued / verified by the SRA only once and never reissued”. He submitted that Section 3Y(1) gives the power to issue a photo pass to “the Government or any officer generally or specially authorised by it”. The Respondent has not stated that the Slum Rehabilitation Authority was authorised to issue photo passes either in the year 2000 or in the year 2006. He has not stated when or by which order such authority was conferred upon the Slum Rehabilitation Authority. No such order has been produced. According to the Petitioner, his photo pass bears the signature of the Zonal Officer, 30 NE census zone, along with the seal of that zone at page 138. The demand notice dated 27 March 2006, produced as Exhibit RJ-5, was issued by the Deputy Collector (Enc/Rem), Bandra Division. The Respondent admits in paragraph 17 that Exhibit RJ-5 was “issued by the encroachment Bandra”. Thus, according to the Petitioner, the Government authorities of that time had dealt with and acted upon his photo pass. The Slum Rehabilitation Authority had not issued the same. The learned

Advocate submitted that Section 3Y(5) requires the Government to maintain a Register of photo passes in the prescribed form. According to him, the Respondent has not produced that Register or even a single entry from it. Instead, reliance is placed only upon a letter issued by the Slum Rehabilitation Authority in August 2026. The Petitioner submitted that the Respondent should be required to establish the statements made in paragraphs 10 and 11 by producing the Register maintained under Section 3Y(5). He submitted that even the Respondent's own interpretation of Section 3Y supports the Petitioner's case on the main issue. According to the Respondent, a photo pass is issued to the occupier of a dwelling structure "in existence on or prior to 1 January 2000". According to the Petitioner, this is the relevant cut-off date under Chapter I-B. There is no separate cut off of 500 sq. ft. or 14 feet in the provisions of Chapter I-B.

10. Mr. Awasthi submitted that the contention that the Petitioner's photo pass was only for “225 square feet horizontally and 14 square feet vertically” is a new contention and is contrary to the record. According to him, the photo pass No. 30NELL000491 records the area as 524 sq. ft. It records that the Petitioner is eligible for rehabilitation up to 500 sq. ft. The column relating to height "more than 14 feet" is ticked. The use is recorded as commercial. He submitted that the impugned order dated 11 January 2018 protected an area of 500 sq. ft. The First Appellate Authority and the Grievance Redressal Committee proceeded on the basis of 500 sq. ft. Even the Respondent's own Reply dated 10 August 2026, particularly paragraphs 5 and 6, refers to 500 sq. ft.

However, in the third affidavit, the Respondent has reduced the area to 225 sq. ft. by relying upon a letter issued by the Slum Rehabilitation Authority in the year 2026. The learned Advocate submitted that the expression “14 square feet vertically” has no proper meaning in the context of the record. The photo pass records height in feet and the column “more than 14 feet” is ticked. He submitted that an authority cannot improve or alter the reasons for its earlier order by filing an affidavit. In support of this submission, he relied upon the judgments of the Supreme Court in *Commissioner of Police, Bombay v. Gordhandas Bhanji, AIR 1952 SC 16,* and *Mohinder Singh Gill v. Chief Election Commissioner,* (1978) 1 SCC 405, which are referred to in paragraph 19 of his Affidavit dated 21 September 2026.

11. Mr. Awasthi submitted that the Government records of the year 2006 show the area of the Petitioner's unit as 514 sq. ft. and 524 sq. ft. The Grievance Redressal Committee has referred to the Corporation's receipt dated 11 May 2006 as being "for the area of 514". The Corporation receipt No. 045266 dated 11 May 2006, produced as Exhibit RJ-7, records an area of 524 sq. ft. against survey form No. 0730458. The Respondent admits in paragraph 17 that these receipts were paid to the Corporation. According to the Petitioner, in view of these Government records, the Respondent cannot now contend that the Petitioner's unit was only 225 sq. ft.

12. Mr. Awasthi submitted that during the hearing, the learned Assistant Government Pleader, on instructions of Respondent No. 4, contended that the photo passes are maintained by the Slum Rehabilitation Authority and that, by Notification dated 23 May

2022 issued by the Chief Executive Officer of the Slum Rehabilitation Authority, the Slum Rehabilitation Authority has jurisdiction over census slums. The learned Advocate submitted that the said Notification is dated 23 May 2022. The survey of the Petitioner's structure was conducted in the year 2000. The photo pass was issued on 10 July 2006. The impugned order was passed on 11 January 2018. Thus, the Notification came into existence more than four years after the impugned order and about sixteen years after the photo pass was issued. According to the Petitioner, it cannot determine which authority issued the photo pass in the year 2006. It cannot provide a reason for an order passed in the year 2018. The Notification was not before the Competent Authority, the First Appellate Authority or the Grievance Redressal Committee when they passed their respective orders. The learned Advocate submitted that the Notification was issued under Section 3C of the Slum Act. It declares lands on which slums existed on or before 1 January 2011, and which are either declared slums under Section 4 or are census slums, to be "Slum Rehabilitation Area" "for the purpose implementation of Slum Rehabilitation Schemes". According to him, the Notification does not state that the Slum Rehabilitation Authority will issue photo passes. It does not state that the Slum Rehabilitation Authority will maintain the Register under Section 3Y(5). It does not confer upon the Slum Rehabilitation Authority any power to verify, cancel or alter a photo pass issued by the Competent Authority. According to the Petitioner, the Notification does not deal with Chapter I-B. He submitted that Section 3Y(1) gives the power to issue a photo pass

to "the Government or any officer generally or specially authorised by it". The Chief Executive Officer of the Slum Rehabilitation Authority is not the Government. Therefore, according to the Petitioner, the Chief Executive Officer could not confer upon himself, by issuing the Notification, the power which Section 3Y confers upon the Government or an officer authorised by the Government. The learned Advocate relied upon the wording of the Notification. According to him, the Notification records that “the land owning Authority and Competent Authority have censused the slum structures and protected structures have been issued Photo passes.” According to the Petitioner, this statement shows that the Competent Authority, and not the Slum Rehabilitation Authority, conducted the census and issued the photo passes. It supports the Petitioner's case that his photo pass was issued by the Competent Authority at the relevant time, namely, the Deputy Collector (Enc/Rem), Bandra Division, through the Zonal Officer of the 30 NE census zone.

13. Mr. Awasthi submitted that the Notification treats every census slum existing on or before 1 January 2011 on public land as a Slum Rehabilitation Area under Section 3C of the Slum Act. The Petitioner's premises are situated in a census slum on Government land. Therefore, if Respondent No. 4 relies upon the Notification, he accepts that the land is a Slum Rehabilitation Area under the Slum Act and that the Slum Act applies to the structures standing thereon, including the provisions of Chapter I-B. The learned Advocate submitted that the Notification refers to the relevant cut off date. It records that “the slum dwellers occupying the

structures existing on 1 January 2000 and prior thereto are entitled for rehabilitation free of cost". According to him, the Notification focuses upon the date on which the structure existed. It does not prescribe a limit of 500 sq. ft. or 14 feet. On the basis of the Notification relied upon by Respondent No. 4 himself, a structure existing before 1 January 2000 is treated as a protected structure entitled to rehabilitation and not as a structure liable to demolition merely on that ground. According to Mr. Awasthi, the verification report of the Slum Rehabilitation Authority dated 27 August 2026 has no basis. No provision of the Slum Act, and nothing contained in the Notification, authorises the Slum Rehabilitation Authority to reconsider a photo pass issued by the Competent Authority about twenty years earlier and reduce the area mentioned therein from 500 sq. ft. to 225 sq. ft. A letter issued by the Slum Rehabilitation Authority cannot, according to him, take the place of the Register required to be maintained under Section 3Y(5). It cannot replace the satisfaction which Section 3Z-1(1) requires the Competent Authority to record before ordering demolition.

14. Mr. Awasthi submitted that as regards the Identification number, No. 30NELL000491 is mentioned on the Petitioner's photo pass. The Competent Authority referred to this number on page 28 of the Petition and recorded on page 29 that he had verified it. According to the Petitioner, the numbers shown in the right hand column relate only to application numbers because the letter of the Slum Rehabilitation Authority deals with the survey tokens issued during the census survey of the year 2000 and not with the photo

passes issued in 2006. The Respondent has compared two different documents belonging to two different stages and has treated the difference as a discrepancy. As regards Bombay Auto Parts, the learned Advocate submitted that the Respondent admits that the Petitioner's photo pass does not mention “Bombay Auto Parts” or any other particular business. Even if the survey sheet of the year 2000 mentioned a particular business being carried on in one of the four galas, the trade licence dated 3 May 1998 records the business as “Lodging House (45 rooms)”. According to the Petitioner, a change from one type of commercial activity to another commercial activity does not amount to construction after 1 January 2000. As regards the area, the learned Advocate submitted that the Respondent describes the entry of 500 sq. ft. on the photo pass as “stamped”. According to him, the figures “500” and “524” are part of the printed and handwritten entries on the photo pass. The photo pass bears the signature of the Zonal Officer and the seal of the 30 NE census zone. The Respondent has not stated that the signature or seal is not that of the concerned Government department. He submitted that the Respondent's own order protected 500 sq. ft. The Government Resolution dated 11 July 2001, particularly paragraph 4(2), provides for photo passes up to 500 sq. ft. in the second phase. According to the Petitioner, the figure of "225 square feet horizontally and 14 square feet vertically" is found neither in the Slum Act nor in any Government Resolution or other document on record. He submitted that the reference to “in the prescribed format” in the right hand column is incorrect because no rules have been framed under Section 46

prescribing such format. This was stated in paragraph 6 of his Affidavit dated 21 September 2026 and has not been denied.

15. As regards the location and dates, Mr. Awasthi submitted that the three entries in the right hand column are the census survey receipts of the year 2000 relating to three different occupants, including Mozzam Ali Shah Mohd Khan, whose receipt bears No. 0730460. According to him, the Petitioner's photo pass is dated 10 July 2006 because it was issued by the Government in 2006, after the survey conducted in 2000 and after the Petitioner paid the charges demanded by the notice dated 27 March 2006. He relied upon paragraph 4(6) of the Government Resolution dated 11 July 2001, which provides that the photo pass would be issued after recovery of arrears from 1 January 1995 onwards. According to him, the period between the survey in 2000 and issuance of the photo pass in 2006 is not a discrepancy. It represents the time taken by the Government to recover the dues and issue the photo pass. As regards the description “Mohammad Hussain Compound” appearing against receipt No. 0698019, the Petitioner submitted that the issue has been dealt with in paragraph 10 of his Affidavit dated 21 September 2026. He submitted that the Competent Authority recorded on page 29 of the Petition that he had verified receipt No. 0698019 as a receipt relating to commercial use at the address of the suit premises.

16. Mr. Awasthi submitted that the Respondent relies upon clause 4(5) of the Government Resolution dated 11 July 2001 and the Government Resolution dated 5 June 2002 as being applicable to the Petitioner. According to him, clause 4(5) of the Government

Resolution dated 11 July 2001 merely provides that a person living on a loft or upper floor of a hutment will not be given a separate photo pass. The Petitioner has never claimed a separate photo pass for a loft or upper floor. According to him, that clause does not confer any power to demolish a structure. He submitted that the Government Resolution dated 11 July 2001 was based upon the cut off date of 1 January 1995. Its title, paragraph 1, paragraph 2(2) and paragraph 3 all refer to 1 January 1995. However, the Legislature replaced that date by 1 January 2000 in Sections 3Y and 3Z-1 by Maharashtra Act 9 of 2014. According to the Petitioner, a Government Resolution based upon the earlier cut off date of 1995 cannot be used to support an order passed in 2018 under a provision which adopts 1 January 2000 as the relevant cut off date. The learned Advocate submitted that paragraphs 4(2) and 4(3) of the Government Resolution dated 11 July 2001 state that the area above 500 sq. ft. "will be evicted without compensation when proper or necessary". According to him, this provision merely describes the area which the Government proposes to rehabilitate free of cost. It does not confer a power of demolition. The power to demolish is contained in Section 3Z-1 and that provision contains its own specific condition regarding construction after 1 January 2000. If the interpretation of the Respondents is accepted, any structure covered by a photo pass and having an area above 500 sq. ft. could be demolished without recording any finding that it was constructed after 1 January 2000. According to the Petitioner, such an interpretation would make the cut off date in Section 3Z-1(1) meaningless. An executive

Government Resolution, according to him, cannot be interpreted in a manner which defeats the express requirement of the statute.

17. Mr. Awasthi submitted that Chapter I-B of the Slum Act is a provision enacted by the Legislature and cannot be treated merely as a temporary welfare measure. According to him, the protection under Section 3Z continues until the protected occupier is relocated in accordance with a scheme. He submitted that the Respondent has stated that, "as per the settled policy guidelines of the Housing Department and SRA regulations, only one Photo Pass is permissible per family individual". According to the Petitioner, no Government Resolution, circular, regulation, or provision has been cited in support of this statement. The four photo pass holders are four separate persons, namely: Saeed Shah Mohd Khan, Mozzam Ali Shah Mohd Khan, Shah Mohd Khan, and Mariam Mohd Hussain Shaikh. The names of all four persons and the area of their respective units are stated in paragraph 2 of the Petition. The same details are mentioned in the joint application dated 17 July 2018, which has been signed by all four persons.

18. Mr. Awasthi submitted that Section 3Z-1(1) permits demolition only where the structure or part of the structure was erected after 1 January 2000. According to him, the impugned order dated 11 January 2018 does not record any finding or satisfaction that any such construction was made after that date. He submitted that none of the three affidavits filed by Respondent No. 4 states that any part of the structure was constructed after 1 January 2000. He submitted that the limits of 500 sq. ft. and 14 feet are derived from the Government Resolutions dated 11 July

2001 and 5 June 2002 and are not found in the Slum Act. Chapter I-B, which was introduced with effect from 18 May 2001 and amended with effect from 2 May 2014, does not prescribe either of these limits. According to the Petitioner, an executive instruction cannot introduce an additional condition which the Legislature has not included in the statute. He submitted that no rules have been framed under Section 46 for the purposes of Sections 3X and 3Y(1). According to him, this position has not been denied by the Government. The learned Advocate relied upon the trade licence dated 3 May 1998 for "Lodging House (45 rooms)", the electricity bill of July 1989 and the telephone bill of 1994. According to him, these documents, which were referred to by the Competent Authority, show that the structure existed in its form much before 1 January 2000. He relied upon the Government Resolution dated 16 May 2015, which according to him protects such existing structures. He submitted that the Competent Authority did not consider this Government Resolution while passing the impugned order. Finally, Mr. Awasthi submitted that the material introduced for the first time in the three affidavits filed in the year 2026, namely the verification report of the Slum Rehabilitation Authority dated 27 August 2026, the Notification dated 23 May 2022, the figure of 225 sq. ft., the allegation of forgery which has been abandoned, and the allegation of change of user from auto parts, was not before the Competent Authority or the appellate authorities when they passed their respective orders. According to him, this subsequent material cannot be used to supply reasons which were absent from the original order. He submitted that, in

proceedings under Article 227, the order dated 11 January 2018 has to be examined on the basis of the material which was before the Competent Authority when that order was passed. According to the Petitioner, even if the subsequent material is considered, it does not establish that any part of the structure was constructed after 1 January 2000.

19. Ms. Aloka A. Nadkarni, learned AGP, submitted that the photo-pass or survey token issued in respect of a structure is issued only once and is not reissued by the Slum Rehabilitation Authority or by any other authority. She submitted that the Respondent, by letter dated 25 August 2026, requested the Competent Authority-9, SRA, Mumbai, to verify the computerized master records relating to the three survey tokens or photo-passes relied upon by the Petitioner. The SRA, by its official reply bearing O.W. No. 1456/SRA/Competent Authority-9/Survey Token/Kavi-Verification/2026/1456 dated 27 August 2026, gave the following verification report. First, Survey Token No. 0730458 is recorded in the name of Saeed Ahmed Shah Mohammad Khan. According to the original survey form dated 19 August 2000, the structure had a height of 14 sq. ft. and an area of 225 sq. ft. It was a ground-floor structure and was shown as being used for "Bombay Auto Parts" for commercial purposes. Secondly, Survey Token No. 0730460 is recorded in the name of another person, namely Moazam Ali Mohamad Khan. The premises are shown at Indiranagar Slum, Parikh Khadi, Survey No. 4. The survey form is dated 14 August 2000 and records a height of 14 sq. ft. and an area of 225 sq. ft. It was shown as a ground-floor commercial structure. Thirdly, Survey

Token No. 0698019 is recorded in the name of Saeed Shah Mohammad Khan, but relates to a different place, namely Mohd. Husain Compound, Parikh Khadi, Kurla (W). The survey form is dated 17 July 2000 and records a height of 9 sq. ft. and an area of 225 sq. ft. It was shown as a ground-floor commercial structure. According to the learned AGP, the official master records of the SRA show that the three survey tokens relied upon by the Petitioner relate to different persons and different locations. According to her, the Petitioner has wrongly combined these three separate survey tokens and is relying upon them to justify a large commercial structure of about 45 rooms and an area of nearly 3,000 sq. ft. at the disputed site. The learned AGP submitted that the original survey record relating to Token No. 0730458 shows only a ground-floor structure. According to her, the Petitioner constructed, without permission, an unauthorised commercial multi-storeyed structure having a height of about 25 feet. She submitted that the Government Resolution dated 5 June 2002 refers to a height of 14 feet. According to her, the construction beyond that height is in breach of the requirements relied upon under Sections 3Z-1 and 3Z-2 of the Maharashtra Slum Areas (Improvement, Clearance, and Redevelopment) Act, 1971.

20. The learned AGP submitted that the photo-passes issued by the SRA record an area of not more than 225 sq. ft. She submitted that each of the survey tokens or photo-passes relates to an area of about 225 sq. ft. Even if the three areas are taken together, the total would be only about 675 sq. ft. According to her, the Petitioner, however, is claiming an area of more than 3,000 sq. ft.

She submitted that the Petitioner has wrongly combined the photo-passes or survey tokens belonging to different persons and has thereby attempted to justify a much larger structure. The learned AGP submitted that the photo-pass relied upon by the Petitioner is forged and fabricated and was not issued by the SRA. According to her, the Petitioner has placed a false and fabricated document before this Court and before the other authorities and has thereby created a wrong impression about his entitlement. She pointed out that the photo-pass relied upon by the Petitioner bears the date 10 July 2006. According to her, even if that date is accepted, the Government Resolution of the year 2000 cannot be applied in the manner claimed by the Petitioner. She submitted that the photo-passes verified from the SRA records bear the dates 19 August 2000, 14 August 2000 and 17 July 2000 respectively and relate to different persons. The learned AGP submitted that the Petitioners are only occupiers of the premises. An occupier, according to her, is a person occupying a dwelling structure and holding a photo-pass. She submitted that a photo-pass is an identity card-cum-certificate issued by the Government under Section 3Y. It includes such other document as may be declared by the Government by an order to be equivalent to a photo-pass for the purposes of Chapter I-B of the Slum Act.

21. Ms. Aloka A. Nadkarni, submitted that under Section 3Y, the Government or an officer authorised by it can, after verifying the relevant documents, issue a photo-pass to the occupier of a dwelling structure which was in existence on or before 1 January 2000. She submitted that where the original photo-pass is lost or

destroyed, the occupier has to make a written application to the concerned authority along with the prescribed fee for issuance of a duplicate photo-pass. The authority is then required to verify the records and make the necessary enquiry. If the authority is satisfied, it may issue a duplicate photo-pass, which has to be marked as a duplicate. The learned AGP submitted that if the original photo-pass is found by the occupier, it has to be surrendered to the authority which issued it. According to her, this procedure shows that a photo-pass is issued or verified only once and cannot be repeatedly issued by the SRA or by any other authority. She submitted that the photo-passes relied upon by the Petitioner have to be tested against the original records maintained by the concerned authority. The learned AGP submitted that the Petitioner, being an occupier, can claim protection only to the extent covered by his photo-pass. According to her, the photo-pass verified from the SRA records covers only an area of 225 sq. ft. horizontally and a height of 14 feet vertically. She submitted that the Petitioner cannot claim protection for a structure larger than what is recorded in the relevant photo-pass. The learned AGP submitted that the land in question belongs to the Government. Therefore, according to her, the Petitioner has no right, title or interest in the public land. He cannot claim any permanent or inherited right to continue an unauthorised structure or to carry out construction without permission from the State Government. According to her, the protection given to an occupier of a protected structure is protection against eviction in accordance with the Slum Act. Such protection does not give the occupier a right to

make additional or unauthorised construction beyond the structure which was protected. The learned AGP submitted that the Competent Authority has the power to remove or demolish an unauthorised or dwelling structure, provided the Competent Authority follows the procedure prescribed by law. According to her, the impugned order was passed in exercise of that power after considering the relevant material.

22. Ms. Aloka A. Nadkarni, learned AGP, submitted that there are two sets of photo-pass records on record. One is the photo-pass relied upon by the Petitioner and the other consists of the photo-pass or survey records verified from the records of the SRA. According to her, the difference between the two sets of documents is material and has to be considered while deciding whether the Petitioner is entitled to protection for the structure standing on the disputed land. The learned AGP submitted that the position, including the alleged discrepancies in the photo-passes and the alleged use by the Petitioner of documents relating to different persons, has been placed before this Court through the SRA verification report. According to her, the said report has not been challenged by the Petitioner. She submitted that there is a substantial difference between the photo-pass relied upon by the Petitioner and the records verified by the SRA. According to her, if the Petitioner's photo-pass is accepted, the Government Resolution of the year 2000 would not apply in the manner claimed by the Respondents. On the other hand, if the photo-passes verified from the SRA records are considered, the Government Resolution of the year 2000 would apply to the structures covered by those records.

The learned AGP submitted that an occupier cannot take or borrow the photo-pass of another person and cannot change the name appearing on such photo-pass. According to her, separate photo-passes issued to different persons for structures existing on or before 1 January 2000 cannot be combined or treated as one photo-pass for the purpose of claiming protection for a larger structure.

23. Ms. Aloka A. Nadkarni, submitted that the impugned order dated 11 January 2018 refers to "Bombay auto part" as the commercial use mentioned in the photo-pass. She pointed out that the order dated 25 May 2018 passed by the Additional Collector (Encroachment) refers to an auto garage being operated by the Petitioner and to payment of taxes by the Petitioner in respect of Bombay Auto Parts (Garage). She submitted that the order dated 19 September 2018 passed by the Grievance Redressal Committee refers to the photo-pass and the commercial tax receipt No. 001413 issued by the B.M.C. on 11 May 2006 for an area of 514 sq. ft. She referred to Exhibit RJ-5 produced with the Petitioner's rejoinder, which bears the cancelled date of 6 December 2004 and the handwritten date 27 March 2006 and was issued in connection with the encroachment proceedings at Bandra. According to her, the document refers to identification fees and compensation or damage charges and states that no right or authority of transfer would be granted. She submitted that Exhibits RJ-6 and RJ-7 show payments made to the BMC. The learned AGP submitted that since the Petitioner claims to be an occupier holding a photo-pass, the Government Resolution dated 11 July 2001, particularly clause

4(5), and the Government Resolution dated 5 June 2002 would apply to the Petitioner's case. According to her, these Government Resolutions apply to both residential and commercial hutments occupied by persons holding photo-passes.

24. Ms. Aloka A. Nadkarni, submitted that the protection given through a policy or photo-pass under the Maharashtra Slum Areas Act, 1971, is intended to provide limited protection to identified structures on public land. According to her, such protection cannot be understood as giving an occupier an unrestricted right to occupy or encroach upon Government land. She submitted that the protection available to a protected structure cannot be used to justify a large commercial construction or commercial activity over a larger area of Government land. The learned AGP submitted that, according to the policy guidelines of the Housing Department and the regulations of the SRA, only one photo-pass can be issued to a family or individual. She submitted that even if three or four separate structures were adjoining each other, there is no provision which permits the occupier to combine their separate photo-passes and thereby create a single large commercial structure of about 3,000 sq. ft. for use as a lodging house on Government land. According to her, such combination or expansion is contrary to the scheme of the Slum Act and the applicable FSI and Development Control Regulations. She submitted that any construction beyond the protected limit would amount to an unauthorised structure and would attract the provisions of Section 3Z-1. The learned AGP submitted that the original photo-pass of the Petitioner was issued for a small commercial unit and the use recorded against it was

"Bombay Auto Parts". According to her, the photo-pass did not recognise or protect a 45-room hotel or lodging house of the size claimed by the Petitioner. The learned AGP submitted that the Petitioner has changed the use of the premises. According to her, the original commercial activity was an auto parts shop, whereas the Petitioner is now running a 45-room hotel and lodging house under the name "Hotel Guest Inn Residency". She submitted that this amounts to a breach of the conditions applicable to the protected structure. According to her, municipal trade licences, permissions under the BMC Act, water connections or other permissions relied upon by the Petitioner may permit the carrying on of a particular commercial activity. However, such permissions do not establish that the structure in which the activity is carried on was lawfully constructed or that the construction is protected under the Slum Act. According to the learned AGP, such municipal permissions cannot override the provisions of the Slum Act concerning unauthorised construction on Government land. The learned AGP submitted that the Court is required to keep in view the larger public interest and the need to protect Government land. According to her, the impugned order dated 11 January 2018 passed by the Respondent, as well as the subsequent orders passed by the First Appellate Authority and the Grievance Redressal Committee, were passed in accordance with law and after considering the material available before the authorities. She submitted that the said orders are legal, proper and justified and do not call for interference in the Writ Petition.

REASONS AND FINDINGS:

25. The main question which comes for consideration is whether the protection under Section 3Z is limited to the dwelling structure and area shown through the photo-pass, which can be treated as the protected shelter of the protected occupier.

26. At the outset, it is necessary to understand what is protected under Chapter I-B of the Act. The answer has to be found from the definitions. Section 3X(a) gives a wide meaning to "dwelling structure". It includes a structure used for dwelling or otherwise and includes an out-house, shed, hut or other enclosure or structure attached to the earth. Therefore, the expression is wide enough to cover different kinds of hutments and structures. Section 3X(b) defines "photo-pass" as follows:

> “photo-pass” means identity card-cum-certificate issued by the Government in the prescribed form under section 3Y and includes any other document declared by the Government to be equivalent thereto.”

27. Section 3X(c) defines "protected occupier" as under:

> “protected occupier” means an occupier of a dwelling structure holding a photo-pass.

28. These two definitions have to be read together. A photo-pass is an identity card-cum-certificate issued under Section 3Y. In the same way, every person occupying a structure in a slum does not become a protected occupier. The statute requires that the occupier must hold a photo-pass. Therefore, the protection under the statute is connected with the status of the protected occupier and with the dwelling structure in respect of which that status is

established. Section 3Z(1) provides:

> "From the commencement of the Maharashtra Slum Areas (Improvement, Clearance, and Redevelopment) (Amendment) Act, 2014, no protected occupier shall, except as provided in sub-section (2), be evicted from the dwelling structure."

29. The important words are "no protected occupier" and "from the dwelling structure". Therefore, the protection is not given to every person occupying every portion of every structure in a declared slum. First, the person must satisfy the meaning of protected occupier under the statute. Thereafter, the protection is from eviction from the dwelling structure to which that status relates.

30. The Petitioner submits that because the expression "dwelling structure" is wide, the entire structure existing at the site must be treated as protected. I am unable to accept the submission in this broad manner. A definition may be wide, but it cannot be read separately from the other provisions of the same Chapter. The expression "dwelling structure" has to be read along with the definitions of "photo-pass" and "protected occupier" and with the manner in which the photo-pass is issued under Section 3Y. Section 3Y(1) provides for issuing a photo-pass after verification of the prescribed documents and records to the occupier of the dwelling structure existing on or before 1 January 2000. Section 3Y(5) requires the Government to maintain an up-to-date Register of photo-passes issued under Section 3Y(1). Therefore, the scheme under the Act is based upon verification. The authority has to identify the dwelling structure, identify the occupier and issue the

photo-pass after the necessary verification. The protection under Section 3Z cannot be separated from this process. The photo-pass is the connection between the occupier and the protected dwelling structure. For the same reason, the submission that the words "dwelling structure" protect every extension or every additional portion of the structure cannot be accepted. If such an interpretation is taken, a photo-pass issued for a small hutment existing before the qualifying date would protect every later extension only because that extension remains attached to the original hut. In that situation, the requirement of a photo-pass and identification of the protected occupier would become almost meaningless.

31. Section 3Z-1 has been enacted to prevent such a result. Section 3Z-1(1) gives power to the Competent Authority to act when it is satisfied that an unauthorised or illegal dwelling structure or part thereof has been constructed, or that an addition to the existing structure recorded on the photo-pass has been erected after 1 January 2000 without the permission. The words "addition to the existing structure as recorded on the photo-pass" are important. The statute connects the existing protected structure with what is recorded on the photo-pass. Therefore, the protection cannot be treated as protection of some undefined and unlimited area around the original hutment. The structure recorded as protected is the starting point for deciding whether something added is an addition or not.

32. The Petitioner is correct to this extent that Section 3Z-1 does not contain the words "500 sq. ft." The statute does not say that

every structure exceeding 500 sq. ft. must be demolished. But this does not mean that the protected area has to be treated as unlimited. The question is what extent of the dwelling structure can be treated as protected under Sections 3X, 3Y and 3Z when the Government policy regarding issuance of identity cards and photo-passes is read along with the scheme. The Government Resolution dated 11 July 2001 is important in this regard. It was issued by the Housing Department regarding issuance of identity cards to eligible slum dwellers. The Resolution states that the identity card is evidence that the holder was residing in the hut which existed before the relevant qualifying date. It provides for measurement of huts exceeding 225 sq. ft. and states:

> "identity cards shall be issued to the slum dwellers residing therein only up to a maximum of 500 sq. ft."

33. The same provision states:

> "Construction in excess of 500 sq. ft. shall, whenever appropriate or necessary, be evicted without payment of compensation."

34. The Resolution deals with the area for which the identity card is to be issued. It deals with what can be done in respect of construction beyond that area. Clause 4(3) states:

> "the identity card shall be issued only for the area up to 500 sq. ft. selected by the identity-card holder"

35. and provides:

> "Construction in excess of 500 sq. ft. shall, whenever appropriate or necessary, be evicted without payment of compensation."

36. The same principle is considered in cases where eligible huts have been amalgamated. The Resolution considers huts existing on or before 1 January 1995 which have been amalgamated and where new huts or buildings have been constructed. Even in such a case, after excluding the prohibited portion, the identity card is to be issued to the concerned identity-card holder only up to a maximum of 500 sq. ft. and the excess construction can be evicted. Therefore, the Government Resolution does not accept that amalgamation of huts creates a new unlimited protected structure. The policy allows the hutment which was eligible, identifies the person entitled to the identity card and fixes the maximum area for which the identity card can operate.

37. The Petitioner submits that the Government Resolution dated 11 July 2001 is based on the earlier qualifying date of 1 January 1995 and cannot control the qualifying date of 1 January 2000 introduced by the 2014 amendment. There is substance in this submission to the extent that the qualifying date must prevail. An executive resolution cannot change the date fixed by the statute. However, the issue here is not whether the qualifying date is 1 January 1995 or 1 January 2000. The issue is the extent of the protected shelter when a person claims protection under Chapter I-B. On this question, the Government Resolution is relevant because it explains how the identity card and photo-pass scheme operates and what is the maximum area for which such identity card is issued. The subsequent Government Resolution dated 16 May 2015 does not enlarge the protected area beyond the area allowed under the photo-pass scheme. Its preamble records that the shelter

of slum dwellers residing in declared and enumerated hutments existing on or before 1 January 2000 has been protected. It provides for a photo-pass to the person residing in such hutment after verification of the relevant documents under Section 3Y. The 16 May 2015 Resolution deals with the documents and procedure for deciding whether a hutment existed on or before 1 January 2000 and whether the person claiming protection is residing there. It provides for documentary proof, self-declaration, scrutiny and spot inspection by the Competent Officer. The Statement attached to that Resolution mentions documents such as electoral roll, electricity records, enumeration form, property tax assessment and other documents for proving existence of the hutment on or before 1 January 2000. It mentions documents such as a Gumasta permit, restaurant licence or tax receipt for proving professional or industrial use. Therefore, these documents are evidence for deciding eligibility. They do not create a protected area of whatever size is mentioned in them. One document may show that a hut existed before 1 January 2000. Another document may show the nature of its use. But neither document can enlarge the protection beyond the protected dwelling structure identified through the photo-pass.

38. The Petitioner's reliance upon electricity bills, municipal tax receipts, trade licences and similar documents has to be considered in this manner. Such documents can have evidentiary value. They cannot be rejected merely because they are not photo-passes. At the same time, they cannot be treated as equivalent to a photo-pass unless the Government has declared them to be so under

Section 3X(b). The same reasoning applies to the survey tokens relied upon by the Respondents. A survey token may be evidence about existence of a structure or identity of a person in the survey records. But a survey token does not become a photo-pass. Section 3X(b) gives a specific meaning to "photo-pass". Section 3X(c) then makes possession of such photo-pass a condition for becoming a protected occupier. Therefore, if the records show three different survey tokens in the names of three different persons and relating to separate locations, those documents cannot be added together for creating one protected structure in favour of another person. Such an exercise would defeat the requirement that the protected occupier must hold the photo-pass. At the same time, the Respondents' submission that the survey tokens establish that the Petitioner's photo-pass is forged requires examination the complete record. A later verification report may create serious doubt and may require the authority to verify the original records.

39. The photo-pass relied upon by the Petitioner is an important document. The fact that it records an area of about 524 sq. ft.. The earlier orders proceeded at different stages on the basis of an area of about 500 sq. ft. The Respondents have referred to 500 sq. ft. in the earlier proceedings. But the fact that a photo-pass records an area slightly above 500 sq. ft. does not mean that the entire area mentioned in it becomes protected contrary to the governing policy. The Government Resolution provides the maximum area for which an identity card can be issued. The words "up to a maximum of 500 sq. ft." cannot be treated as having no meaning.

40. The Petitioner has submitted that 500 sq. ft. is only a rehabilitation ceiling and has no connection with protection from eviction. This submission requires consideration. The Resolution may refer to the area eligible for rehabilitation. However, it provides that construction in excess of 500 sq. ft. may be evicted without compensation. Therefore, the document is not concerned only with giving a rehabilitation tenement. It identifies the extent of the area allowed under the identity-card scheme and deals with excess construction.

41. Section 3Z does not create protection for every construction standing on the land. It protects the "protected occupier" from eviction from the "dwelling structure". A person becomes a protected occupier because he holds a photo-pass. The photo-pass is an identity card-cum-certificate issued under Section 3Y. The extent for which the identity card can operate has to be understood from the Government policy governing its issuance. If the Petitioner's interpretation is accepted, a person having a photo-pass for 225 sq. ft. could construct or occupy another 1,000 or 2,000 sq. ft. and then say that the entire structure is a "dwelling structure" under Section 3X and protected from eviction under Section 3Z. Such an interpretation would lead to a result which is inconsistent with Section 3Z-1, which permits action against unauthorised or illegal structures and additions made after the qualifying date. The word "unauthorised" in Section 3Z-1 has to be understood with reference to the protected structure. A structure may be attached to an old hutment and still be an unauthorised addition. Merely because it is attached to the old structure, it does

not become part of the protected structure. This is the reason why Section 3Z-1 refers not only to a newly constructed structure but to an "addition to the existing structure as recorded on the photo-pass". The legislature has allowed that an old protected structure may be enlarged. If every such enlargement became protected merely because it forms part of the same physical building, this part of Section 3Z-1 would have little meaning.

42. The words "after 1 January 2000" are important. The protection is connected with the structure existing on or before the qualifying date. It is not a permission to increase the size of that structure after the qualifying date. The cut-off date identifies the structure which is eligible for protection. It does not give a right to enlarge that structure. I find that the Petitioner's submission that because the words "500 sq. ft." are absent in Section 3Z-1, the area must be treated as unlimited, cannot be accepted. The 500 sq. ft. limit is not being inserted into Section 3Z-1 as an independent phrase. It is being applied for finding out the extent of the protected dwelling structure because the protection is connected with the photo-pass and the photo-pass scheme, and the governing policy provides that an identity card is issued only up to a maximum of 500 sq. ft. This interpretation gives proper meaning to the relevant provisions when they are read together. Section 3X identifies the protected concepts. Section 3Y provides the machinery for issuing and recording the photo-pass. Section 3Z protects the protected occupier from eviction. Section 3Z-1 deals with unauthorised construction and unauthorised additions. These provisions cannot be read separately from one another. I am of the

view that, for the purpose of protection under Section 3Z read with Sections 3X, 3Y and 3Z-1, the maximum area which can be allowed as the protected dwelling structure under the photo-pass scheme is 500 sq. ft. A claim beyond that area does not become protected merely because the additional portion is connected with the protected structure or because some document mentions a larger area.

43. The documents relied upon by the Petitioner have to be considered for the purpose for which they can be used. An electricity bill may show that electricity was supplied to the premises. A municipal tax receipt may show assessment. A trade licence may show a particular use. An old document may show that some structure existed before 1 January 2000. But these documents do not establish that the entire structure is the protected dwelling structure under Section 3Z. The Government Resolution dated 16 May 2015 follows this approach. It requires at least one prescribed proof for deciding that the hutment existed on or before 1 January 2000. It then requires separate proof regarding residence of the hutment dweller. The Competent Officer is required to scrutinise the documents and conduct a spot inspection. The evidence has to be considered as a whole, but every document has to be given only the effect which it can carry. The photo-pass determines the protected status. The supporting documents may assist in proving existence and nature of use. The survey records may assist in verification. But none of these documents can be used for enlarging the protection beyond the protected area.

44. The submission that a Government Resolution cannot override the provisions of the statute is correct as a general principle. A Government Resolution cannot take away a right which is given by the Act. The question before the Court is not whether the Government Resolution can override Section 3Z. The question is what is meant by a "protected occupier" and what extent of the dwelling structure of such protected occupier gets protection under Section 3Z. For this purpose, Section 3Z has to be read with Section 3X, which explains the relevant expressions, and Section 3Y, which provides for verification and issuance of the photo-pass. The photo-pass has importance because it connects the protected occupier with the dwelling structure in respect of which the protection is claimed. In this background, the Government Resolution is not being used for putting any new restriction which is not provided in the Act. It is being considered for understanding the scheme under which the identity card and photo-pass were issued and the extent for which such identity card was intended to operate. The Government Resolution explains the policy and the manner in which the identity-card and photo-pass scheme was to be implemented. Therefore, the same can be taken into consideration for understanding the extent of the protected dwelling structure. At the same time, it cannot be used for taking away the protection which is given by the statute. The Government Resolution has to remain within the statutory scheme and cannot be given a meaning which will defeat the right under the Act. Therefore, the issue is not whether the Government Resolution can prevail over the Act. The issue is whether the Government

Resolution can assist the Court in understanding the scope of the photo-pass and the dwelling structure which is allowed under the statutory scheme. In my view, it can be considered for this limited purpose. The statutory provisions and the policy under which the photo-pass was issued have to be considered together, because the protection under Section 3Z is connected with the protected occupier and the dwelling structure represented by the photo-pass. The Government Resolution is not being given any overriding effect over the statute. It is being considered only for understanding the extent of the protection which arises under the statutory scheme.

45. The Resolution dated 11 July 2001 states that in Greater Mumbai eligible slum dwellers on Government land, declared private land and land of other public undertakings are issued identity cards through the Collector. It provides for an identity-card register and makes regular payment of consolidated charges a condition for validity of the identity card. This again shows that the scheme is based upon a particular and identified entitlement and not upon an unrestricted right over the whole structure or land. The Petitioner's submission that the land belongs to the Government and that he does not claim title does not change this conclusion. The fact that ownership is not claimed may be relevant for understanding the nature of the right. But Section 3Z gives protection to a protected occupier without giving ownership. It is a protection against eviction. Therefore, it has to remain within the limits provided by the scheme. Similarly, the fact that the structure may have been used for commercial purposes does not enlarge the

protected area. The Resolution dated 11 July 2001 allows commercial and industrial use and provides a separate identity-card fee for such use. It separately deals with the area and excess construction. Therefore, commercial use may be allowed when established, but commercial use cannot convert an unlimited area into a protected structure.

46. The submission regarding amalgamation of four structures does not lead to a different conclusion. The Resolution dated 11 July 2001 considers situations where eligible huts existing on or before the qualifying date have been amalgamated and new huts or buildings have been constructed. Even in such a case, the identity card is restricted to a maximum of 500 sq. ft. and the remaining excess construction may be evicted. Thus, amalgamation may be a relevant fact for deciding the history of the structure. But it does not create a larger protection. Four separate structures cannot be joined together merely because they are now connected and, on that basis, treated as one protected structure.

47. The material relating to the survey tokens has to be considered. If the verified records show that the three survey tokens were issued in different names and for different locations, such material raises a serious question about the Petitioner's attempt to combine those records. But such material alone cannot decide the status of the Petitioner's photo-pass. The original photo-pass and the record concerning its issuance remain relevant.

48. For these reasons, I hold that the protection under Section 3Z(1) is protection of the protected occupier from eviction from the protected dwelling structure. It is not protection of the land or of every construction standing on the land. The maximum area allowed for such protected dwelling structure under the photo-pass scheme is 500 sq. ft. Any area or construction beyond that limit does not acquire protection under Section 3Z merely because it is attached to or forms part of the structure.

49. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

(i) The Petition is partly allowed in the above terms;

(ii) It is held that the protection under Section 3Z(1) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 is available to a protected occupier in respect of the protected dwelling structure represented by the photo-pass. Such protection cannot be understood as extending to every subsequent addition or other construction merely because the same is attached to the original dwelling structure;

(iii) It is held that, under the photo-pass scheme and the applicable Government Resolution, the maximum extent of the dwelling structure which can receive such protection is 500 sq. ft. The requirements of Section 3Z-1 have to be satisfied before any action can be taken in respect of such construction;

(iv) The matter is accordingly remanded to the Competent Authority for examining the claim of the Petitioner afresh in accordance with the above legal position;

(v) The Competent Authority shall examine all the documents produced by the Petitioner in support of the claim, including the photo-pass and such other documents as may have been relied upon by the parties;

(vi) While doing so, the Competent Authority shall examine the genuineness and evidentiary value of each of the documents produced by the Petitioner. If any document is found to be doubtful or requiring verification, the Competent Authority shall make appropriate verification from the concerned authority or record from which such document is stated to have originated;

(vii) The Competent Authority shall examine the survey records and the different survey tokens relied upon by the parties;

(viii) The Competent Authority shall give the Petitioner and all concerned parties opportunity to produce the original documents, supporting material and explanations in respect of the documents relied upon by them and shall give an opportunity of hearing before passing the fresh order;

(ix) The Competent Authority shall pass a fresh, reasoned order after considering the documents and material on record and the findings required to be recorded as above;

(x) The entire exercise shall be completed, as far as possible, within a period of twelve weeks from the date on which a copy of this order is placed before the Competent Authority;

(xi) Until the fresh decision is taken, no coercive action shall be taken against the portion of the structure which is prima facie covered by the protection under Section 3Z, except in accordance with law;

(xii) The Petition stands disposed of in the above terms. There shall be no order as to costs.

(AMIT BORKAR, J.)