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PROPERTY RIGHTS EXPLOITATION VIA POWER OF ATTORNEY (POA) IN THE MAHARASHTRA SLUM ACT, 1971

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ABSTRACT

In Mumbai, thousands of slum dwellers are persuaded to sign a General Power of Attorney (GPA) on the understanding that it is a routine administrative document. In reality, many of these GPAs contain hidden clauses that permanently strip residents of their rights to shelter and rehabilitation without them realising it. This paper examines how developers exploit the GPA mechanism within the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act 1971, why the Slum Rehabilitation Authority (SRA) fails to prevent it, and what reforms are needed. Drawing on the decisions in *Suraj Lamp and Industries v. State of Haryana*, *Bharat J. Patel v. State of Maharashtra*, *Olga Tellis v. Bombay Municipal Corporation*, and *Susme Builders v. Slum Rehabilitation Authority*, this paper argues that the exploitation of the GPA in slum redevelopment represents a serious failure of statutory oversight, agency law, and constitutional protection.

Keywords: Power of Attorney, Slum Redevelopment, Maharashtra Slum Act 1971, Article 300A, Slum Rehabilitation Authority, Property Rights, Judicial Review

1. INTRODUCTION

A Power of Attorney is meant to be a tool of convenience. It allows one person to authorize another to handle specific tasks on their behalf, typically to save time and reduce administrative burden. In Mumbai's slum redevelopment sector, this tool has been turned into an instrument of dispossession.

Under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act 1971, private developers are invited to clear slum land, build free permanent homes for eligible slum dwellers, and earn profits by selling flats commercially on the remaining portion. To manage the regulatory process, developers routinely ask residents to sign a General Power of Attorney so that the developer can act on their behalf before the SRA. What is presented as a helpful

administrative shortcut is, in many cases, a deliberately deceptive document that permanently removes the resident's rights without their knowledge.

This paper studies how this exploitation operates, traces the relevant statutory and constitutional framework, examines key judicial decisions, and recommends reforms to close the legal gaps that make this abuse possible.

2. HISTORICAL BACKGROUND

2.1 The Slum Problem and the Slum Act 1971

Rapid post-independence industrialisation in Mumbai brought millions of migrant workers into a city that lacked adequate housing infrastructure. Informal settlements proliferated across public and private land, creating a dual crisis: severe humanitarian conditions for residents and an administrative challenge for the state. Early responses of demolition and eviction proved socially and economically unsustainable. The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act 1971 was enacted to introduce a structured legislative response. Amendments in 1995 created the SRA and introduced the developer-driven rehabilitation model: developers cleared slum land, built free tenements for eligible residents on part of the plot, and recovered costs by selling flats commercially on the rest, incentivised by generous Floor Space Index (FSI) grants.

2.2 The PoA as a Developer's Tool

Regulation 33(10) of the Development Control Regulations for Greater Mumbai made slum land highly lucrative, but required developers to secure written consent from at least 70% of eligible residents before proceeding.¹ This threshold created friction. Residents bargained, refused, or organised legal resistance. Developers began deploying GPAs as a solution, presenting them to residents as simple administrative forms. Over time, developers realised that broad, irrevocable GPAs obtained at the outset of a project could eliminate all future resistance and give the developer total control over the scheme from start to finish.

3. LEGAL FRAMEWORK

3.1 Agency Law and the Section 202 Loophole

The legal strategy that makes the GPA loophole work depends on Section 202 of the Indian

¹Regulation 33(10), Development Control Regulations for Greater Mumbai.

Contract Act 1872.² This provision states that where an agent has a personal financial interest in the subject matter of the agency, the principal cannot revoke the PoA to the prejudice of that interest. Developers exploit this by structuring the GPA to include financial advances or development costs, making the arrangement appear to be an "agency coupled with an interest." This strips the slum dweller of the right to cancel the PoA under Section 201 of the Contract Act,³ locking them into an irreversible arrangement that permanently removes them from any meaningful participation in decisions about their own home.

3.2 Transfer of Property Act 1882 and Registration Act 1908

The developer's strategy directly violates Section 54 of the Transfer of Property Act 1882, which requires any transfer of immovable property worth more than one hundred rupees to be made through a registered sale deed.⁴ Similarly, Section 17 of the Registration Act 1908 mandates the compulsory registration of any document that creates, limits or extinguishes rights in immovable property.⁵ By using an unregistered or deceptively drafted GPA to achieve effective control over a resident's property rights, developers evade stamp duty, public record requirements, and the scrutiny that formal registration brings.

3.3 The Slum Act 1971 and the SRA's Blind Spot

The Slum Act 1971, particularly Sections 3, 13 and 14, gives the SRA sweeping powers to declare slum areas, clear land, and implement rehabilitation schemes.⁶ The statute mandates that the SRA must protect the welfare of slum dwellers. However, it contains no independent verification mechanism to audit whether the GPAs submitted by developers were genuinely understood by the residents who signed them. The SRA routinely accepts these documents at face value, treating them as unencumbered consents to proceed, without ever summoning residents to confirm their understanding.

3.4 Constitutional Protections Under Articles 300A and 21

Although the right to property is no longer a fundamental right, it is protected under Article 300A of the Constitution, which states that no person shall be deprived of their property except by authority of law.⁷ Courts have held that this covers not just formal ownership but also settled

²Section 202, Indian Contract Act, 1872.

³Section 201, Indian Contract Act, 1872.

⁴Section 54, Transfer of Property Act, 1882.

⁵Section 17, Registration Act, 1908.

⁶Sections 3, 13 and 14, Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.

⁷Article 300A, Constitution of India, 1950.

possessory rights and statutory entitlements to rehabilitation housing. Separately, Article 21⁸ protects the right to life and livelihood. As established in *Olga Tellis*, eviction without fair process violates this right. Deceptive GPAs that strip residents of their rehabilitation entitlement without their knowledge engage both constitutional provisions.

4. JUDICIAL DEVELOPMENTS

4.1 *Suraj Lamp and Industries Pvt. Ltd. v. State of Haryana (2012)*

The foundational ruling on the misuse of Powers of Attorney in property transactions is *Suraj Lamp and Industries Pvt. Ltd. v. State of Haryana & Anr.*, (2012) 1 SCC 656.⁹ The Supreme Court firmly held that a Power of Attorney is not an instrument of transfer and cannot convey title to immovable property. Property can only be lawfully transferred through a registered deed of conveyance. The Court criticised the widespread practice of using GPAs, sale agreements, and wills together to complete property deals without registration, declaring such arrangements void, illegal, and contrary to public policy.

This judgment established the rule that controls the SRA context directly: whatever a GPA says, it cannot transfer possessory or ownership rights in property. Any effective property transfer achieved through a GPA in a slum redevelopment scheme is therefore void from the outset.

4.2 *Susme Builders Pvt. Ltd. v. Slum Rehabilitation Authority (2018)*

In *Susme Builders Pvt. Ltd. v. Slum Rehabilitation Authority & Ors.*, (2018) 2 SCC 230, the Supreme Court examined the outer limits of a developer's authority under an irrevocable PoA in the SRA context.¹⁰ The Court held that even an irrevocable PoA under Section 202 of the Contract Act does not protect a developer who has committed fraud, abandoned a project, or acted beyond the original scope of the resident's authorization. The Court further confirmed that the SRA has power under Section 13(2) of the Slum Act 1971¹¹ to remove a developer from a scheme if consent was obtained through misrepresentation or if rehabilitation obligations are not met. This case is significant because it establishes that irrevocability is a qualified, not absolute, protection and that the SRA has active supervisory duties it cannot

⁸Article 21, Constitution of India, 1950.

⁹*Suraj Lamp and Industries Pvt. Ltd. v. State of Haryana & Anr.*, (2012) 1 SCC 656 (SC, 11 October 2011), paras 16–18.

¹⁰*Susme Builders Pvt. Ltd. v. Slum Rehabilitation Authority & Ors.*, (2018) 2 SCC 230 (SC, 11 December 2017), paras 22–25.

¹¹Section 13(2), Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.

delegate to developers.

4.3 Bharat J. Patel v. State of Maharashtra (2023)

In *Bharat J. Patel v. The State of Maharashtra and Ors.*, 2023 SCC OnLine Bom 821, the Bombay High Court confronted a situation where developers and local factions had used fraudulent consent letters and deceptively executed GPAs to obtain a Section 14 acquisition notification for land in Village Dindoshi, Borivali, entirely ignoring written objections from the legitimate right-holders.¹²

The High Court quashed the notification, holding that acquisition proceedings predicated on collusive manoeuvres, fraudulent GPAs, and violations of natural justice are fundamentally unsustainable. The court was direct: the SRA cannot act as a passive conduit for a developer's land grab. It must independently verify the authenticity of the consent it receives before issuing any coercive order. This decision remains the clearest judicial statement that administrative reliance on fraudulent PoAs to advance a redevelopment scheme will not be permitted.

4.4 Olga Tellis v. Bombay Municipal Corporation (1985)

The constitutional baseline for protecting slum dwellers against displacement was set by the Supreme Court's Constitution Bench in *Olga Tellis & Ors v. Bombay Municipal Corporation & Ors.*, (1985) 3 SCC 545.¹³ The Court held that the right to life under Article 21 encompasses the right to livelihood. Eviction from an informal home without due process deprives a person of their means of survival. Any procedure authorising displacement must therefore be fair, just and reasonable.

Applied to the SRA framework, *Olga Tellis* means that an administrative process that relies on a deceptive PoA to strip a slum dweller of their rehabilitation rights, without giving them a hearing or ensuring they understood what they signed, violates Article 21. The constitutional protection is not triggered only by forcible eviction; it applies equally to the quiet removal of registered rights through document fraud.

5. ANALYSIS

5.1 Subversion of Agency Law

An agency relationship is built on fiduciary duty. The agent must act exclusively in the

¹²*Bharat J. Patel v. The State of Maharashtra and Ors.*, 2023 SCC OnLine Bom 821: 2023 BHC 2863 (Bom HC, 13 April 2023), paras 27, 42–45.

¹³*Olga Tellis & Ors v. Bombay Municipal Corporation & Ors.*, (1985) 3 SCC 545 (SC, 10 July 1985), paras 32–34.

principal's interest. In the SRA context, developers hold the slum dweller's PoA while simultaneously acting as the commercial contractor whose goal is to maximise profit. They sign off on transit rent, tenement sizes, and project timelines on behalf of residents, but always in ways that serve their own commercial interests. The resident's signature on the GPA becomes the developer's tool to eliminate the very person whose presence justified the entire scheme. This is a complete inversion of the law of agency and directly contradicts the principle in Section 54 of the Transfer of Property Act that rights in property cannot be transferred without a registered deed.

5.2 The SRA's Verification Gap

The operational success of this exploitation depends on the SRA's failure to verify what residents actually understood when they signed. The Slum Act 1971 contains no mandatory requirement for an independent officer to certify, in the resident's own language, that the GPA was understood before it was signed. When a developer submits a project file containing hundreds of GPAs, the SRA processes the application without speaking to a single resident. There is no digital cross-matching system, no biometric verification, and no neutral witness requirement. This gap is not accidental. Developers have benefited from it for decades, and the SRA's administrative overload has made cursory acceptance of documents the path of least resistance.

5.3 The Developer's Conflict of Interest

The most structurally dangerous aspect of the loophole is the dual role the developer occupies. As commercial contractor, the developer's goal is to minimise costs on construction, transit rent, and resident-related obligations. As the holder of the resident's PoA, the developer is legally supposed to protect those same interests. These roles are irreconcilable. A developer cannot genuinely negotiate fair transit rent on behalf of a resident while being the party who pays it. Allowing this conflict to persist without legislative prohibition is one of the most serious gaps in the current framework.

5.4 Constitutional Harm

The PoA loophole produces a dual constitutional violation. First, it deprives residents of their statutory entitlement to a rehabilitation home without any valid law authorizing that deprivation, violating Article 300A. Second, because loss of shelter without immediate equivalent rehabilitation leads to displacement and loss of livelihood, it violates the right to

life under Article 21 as established in Olga Tellis. The state's failure to regulate deceptive private instruments within a state-sanctioned rehabilitation scheme means it is enabling these violations through its own administrative passivity.

6. SUGGESTIONS FOR REFORM

6.1 Compulsory Registration of Redevelopment PoAs

Any GPA signed by a slum resident in connection with a redevelopment scheme must be made compulsorily registrable under Section 17 of the Registration Act 1908, regardless of any financial consideration clauses. Each such PoA should carry a maximum validity of twenty-four months, after which it must expire unless formally renewed before a public authority with the resident's fresh, witnessed, and recorded consent.

6.2 Ban on Developers Holding Residents' PoAs

The Slum Act 1971 must be amended to prohibit any developer, or any director or employee of a development company, from holding a Power of Attorney for a resident within the scheme they are building. Where administrative representation is genuinely needed, it must be held exclusively by the democratically elected managing committee of the slum dwellers' co-operative housing society, functioning independently of the developer.

6.3 Independent SRA Verification Before Project Clearance

Before the SRA grants any Letter of Intent or project clearance on the basis of a PoA, an independent SRA Grievance Redressal Officer or Metropolitan Magistrate must personally meet each resident who has signed. The officer must read out the document's contents in the resident's native language and record a biometrically verified declaration confirming that the resident understands they are not surrendering their right to a rehabilitation home. No project should advance without this step.

6.4 Legislative Reform on Revocability

The state legislature must amend the Slum Act 1971 to provide that, notwithstanding Section 202 of the Indian Contract Act 1872, any Power of Attorney executed within an SRA scheme shall remain fully revocable at the sole discretion of the slum dweller. Any contractual clause asserting irrevocability within such an instrument shall be void and shall attract criminal penalties for the party that inserted it.

7. CONCLUSION

The General Power of Attorney was designed to reduce administrative burden. In Mumbai's slum redevelopment sector, it has become an instrument of dispossession. Developers exploit gaps in agency law, use the Section 202 loophole of the Indian Contract Act to make GPAs irrevocable, and rely on the SRA's failure to verify consent to secure project approvals that permanently remove residents from decisions about their own homes. The courts have been clear. In *Suraj Lamp*, the Supreme Court held that a PoA cannot transfer title to property. In *Susme Builders*, the Court confirmed that irrevocability does not protect a fraudulent or defaulting developer, and that the SRA has active supervisory duties. In *Bharat J. Patel*, the Bombay High Court quashed approvals built on fraudulent consent documents and held that the SRA must independently verify the authenticity of what it receives. In *Olga Tellis*, the Supreme Court established that displacement without due process violates the right to life. Despite this body of jurisprudence, the structural problem persists because the law does not yet require the SRA to independently verify each GPA, does not prohibit developers from holding residents' PoAs, and does not guarantee residents access to legal advice before signing. The Slum Act 1971 was enacted to improve the lives of urban poor communities, not to facilitate their displacement for private profit. Closing the PoA loophole through the reforms proposed in this paper is essential to restoring that purpose and ensuring that slum redevelopment genuinely serves the people it was designed to protect.

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