

## Fact Finding Team's Report on Garib Nagar (Bandra East) Fire and Demolitions

8<sup>th</sup> November 2017

*This is a report of the four-member fact finding team constituted by Committee for Protection of Democratic Rights (CPDR) to inquire into the demolition of homes in Garib Nagar, Bandra East between 26<sup>th</sup> October and 2<sup>nd</sup> November 2017 and the eruption of major fire in the same basti on 26<sup>th</sup> October. The Fact Finding Team members were Adv. Suresh Rajeshwar, Salim Saboowalla, Ramesh Bairy and Paankhi Agrawal. The team visited the site on 5<sup>th</sup> November, 2017 and spoke with the residents. The team was supported in its investigation by Shweta Tambe and Zubeida Sayyed from Committee for Right to Housing (CRH). The team would also like to thank Reetika Revathy Subramanian from Aajeevika Bureau who shared with the team a fact sheet she had compiled on the Garib Nagar demolitions and Trishul D N and Sushant Ingle for sharing photographs of the site and documents.*

### **INTRODUCTION**

A demolition drive was undertaken in Garib Nagar *basti* (settlement) in Bandra East from 26<sup>th</sup> October to 2<sup>nd</sup> November in which more than 350 buildings were razed down. As a result, around 1000 families have been forcibly displaced. The demolitions began even before the deadline of 48 hour notice issued to the people was over. In the ensuing commotion, a major fire broke out in the basti on 26<sup>th</sup> October in which hundreds of homes were destroyed. The demolitions were carried out by Municipal Corporation of Greater Mumbai (MCGM) on basis of the Bombay High Court's 2009 order that directs the municipal body to clear non-legal structures within 10 metres of both sides of the Tansa pipeline.

### **BACKGROUND**

Garib Nagar is located in Mumbai's H-East Ward, close to Bandra railway station (East). It is mentioned on 2015 list of slum clusters drawn by Slum Rehabilitation Authority (SRA) and said to cover an area of 7250 sq metres.<sup>1</sup> A recent newspaper report however conveys that Garib Nagar area is not less than 30000 sq metres.<sup>2</sup>

Nearly 50 years ago much of the land on which the basti has come up was a swamp. It was used by Koli fisherpeople until sometime back. There was also an abattoir on it where several people worked. Over time,

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<sup>1</sup> <http://www.sra.gov.in/Data/List%20of%20slum%20cluster2015.pdf>

<sup>2</sup> <https://timesofindia.indiatimes.com/city/mumbai/bmc-clears-8-acre-slum-sprawl-near-bandra-e-station/articleshow/61474412.cms>

the land was refilled and people built their homes on it and it developed as socio-economic milieu consisting of homes of hundreds of families.

The residents work in the *karkhanas* (workshops that mostly do piecework for garment units) operating here, many are vendors for small goods, some are welders, tailors, daily wage workers and a few run autorickshaws on rent. Women of nearly half the households here work as domestic help in the affluent homes of Bandra West. Most residents are Muslim. There are also migrant workers who have been living in this area as tenants and working in the karkhanas.

The structures in Garib Nagar till before the recent demolitions were multi-storied. There were nearly 700 G+3 and G+4 structures. Altogether there were more than 2000 tenements in the basti before the demolition. The occupants of the ground floor premises were mainly owners, whereas those of the above storeys were tenants. According to the residents here, ground floors were mainly used for residential purposes and only around 20 percent of the ground floor tenements were being used as karkhanas. Most manufacturing units were on top floors.

Reliance energy has supplied their houses with electricity connections and MCGM has provided some communal tap water connections to the residents here. Most of the residents have voting cards, ration cards, death certificates, birth certificates of children, PAN cards and Aadhar cards with Gate No. 18, Garib Nagar as the address. Their children attend various schools in the area. Some students have completed or are studying for graduation.

In 2011, there was a major fire in the basti in which around 2000 shanties were destroyed.<sup>3</sup> After the catastrophe, considerable help poured into the community to help them rebuild their structures and lives. Multiple storied structures were constructed after the fire.

Several structures in Garib Nagar are located on and near the Tansa pipeline. The pipeline here is beneath the earth's surface. Following the Bombay High court's order of 2009, MCGM had issued notices to the residents in 2011 and 2017 asking them to vacate the premises.

## **RECENT DEMOLITIONS AND FIRE**

MCGM issued a notice to more than 300 residents of Gate no. 18, Garib Nagar stating the Bombay High Court order and invoking Section 314 of the Mumbai Municipal Corporation Act to ask residents to vacate the premises voluntarily within 48 hours or be responsible for the consequences of eviction by municipal corporation thereafter. The letter is dated 25<sup>th</sup> October 2017 and was disbursed among the residents around 8 pm on the same day.

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<sup>3</sup> <https://timesofindia.indiatimes.com/city/mumbai/Mumbai-Major-fire-guts-slum-in-Bandra-11-injured/articleshow/7629096.cms>

But the demolition began before the 48 hour deadline, in fact in less than 24 hours. On 26<sup>th</sup> October at around 11 am, officials from MCGM arrived with JCBs, more than 50 workers and nearly 150 police personnel and began the demolitions. The residents were completely unprepared for the unannounced demolition drive. They were yet to clear the area of their belongings. Commotion followed as people ran helter-skelter to save their children and belongings as the demolition drive progressed.

At around 3 pm there erupted a fire in a couple of homes following cylinder blasts which quickly spread to most other homes in Garib Nagar. The fire brigade began its operations around 4.30 pm and managed to douse the fire by late evening. More than 350 homes were destroyed in the fire.

Demolitions began once again a couple of days after the fire and came to a halt only after the Bombay High Court stayed the matter on 30<sup>th</sup> October based on a petition filed by some affected families. By that time more than 300 structures had been razed down and nearly 1000 tenements lost to demolitions. The authorities also demolished the boundary wall of the dargah which had been built more than 20 years ago and which was also earmarked as a protected structure by the MCGM.

Three days after the fire, the police arrested a local resident alleging that it was he who with some accomplices began the fire. Sabir Khan has been arrested by Nirmal Nagar police and charged of criminal conspiracy, mischief by explosive substances with intent to destroy house and endangering lives and safety of people.<sup>4</sup>



The site of demolished houses of Garib Nagar: A view from Bandra footover bridge

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<sup>4</sup> <http://www.hindustantimes.com/mumbai-news/did-slum-dwellers-start-bandra-fire-to-halt-demolition-mumbai-police-think-so/story-wpoCI5EGqlrbD9B1Q3eMAO.html>



Bade Pir ki Dargah:

The walls have been razed down



Precariously standing multi-storied structures that survived the demolition drive



Conditions after demolitions

## **FINDINGS**

### **1. Disruption of life, major economic losses and violation of Right to Life**

By demolishing the homes of residents of Garib Nagar, the state is guilty of violating peoples' basic rights to life, livelihood, access to basic amenities necessary for dignified life which are guaranteed under the Constitution of India.

The residents of Garib Nagar have had to endure major losses due to the sudden and unlawful demolition drive and the subsequent fire. They have lost their documents, furniture, clothes and tools of work. The owners of karkhanas have suffered losses in lakhs due to destruction of the finished goods which were to be sold to Naupada wholesale cloth market on Friday. Their machines were destroyed in fire due to which production activities cannot be resumed elsewhere.

The most adversely affected are the women and children. Women have to stay in the open and do not have access to proper toilet and bathing facilities. Children have stopped going to school not only because their uniforms and books have been destroyed but also since they have to assist their families to build makeshift homes and to keep a lookout for further trouble. Since most families have been rendered homeless by the demolition drive and have not been promised alternate accommodation, the likelihood of the children continuing to study in their earlier schools appears dim.

The demolitions and fire have also been a cause for financial trouble for the tenants. More than half of the residents in the basti are tenants who have paid heavy deposits for staying here on rent. They are facing the likelihood of losing their deposits given that most owners are also not in position of returning due to loss of their structures. We met a couple of families who had purchased houses paying, given their precarious economic status, huge sums procured on loans. The demolition has left them not only without homes but also a great economic burden.

In the aftermath of the demolitions, there are many opportunistic elements who are asking residents to submit documents and extracting considerable amount of money with the promise to provide more long term relief to them. There is no guidance from any of the government officials about what possible relief is available to people who have lived in Garib Nagar for many years and whose livelihoods are inextricably linked to the areas near Garib Nagar.



Left: Makeshift tents: homes for homeless after demolition



Right: Cooking in open

## 2. Unlawful and irresponsible demolition drive

The demolition drive which began before the end of the deadline of 48-hour notice led to considerable commotion in the community. In fact, the sudden demolition was the main factor that led to eruption of fire in the area. The situation was rendered more precarious as the authorities did not make arrangements to turn off the power supply in the settlement during the demolition. According to the residents, there was no ambulance on site when the demolitions began. Thus, very little preparation was made to manage the possible disastrous fallout of forcible demolitions.

It appears that, in what is clearly a violation of the mandate of demolition, structures beyond 10 metres of the pipeline have been razed down. The team also met several residents who lost their homes in the demolition drive but had not been served notices. Their homes were demolished beyond the marking that BMC itself had made .



Red mark made by MCGM before demolitions (see in highlighted box):  
Homes beyond this mark have also been demolished

### **3. Dispute over Ownership of Land**

According to the residents here as well as various newsreports that have been published after the recent demolitions and fire, there are disputes between authorities over the ownership of land.<sup>5</sup> MCGM claims that the land belongs to the railways and that they have sought no objection certificates from railways for clearing the land. On the other hand, railway authorities have shied away from claiming ownership over the land. Similar contestations had come up during the 2011 fire.<sup>6</sup>

It is clear that for several years public authorities turned a blind eye to the growth of construction on this piece of land and have been apathetic towards questions of accountability. Now that the people have invested in housing in the area, the authorities have undertaken this sudden demolition drive while evading questions in face of disasters such as the fire in Garib Nagar.

### **4. Perceived Security of Tenure**

After 2011 fire, when people started to rebuild their homes and lives over the same land, the authorities did not object to the reconstruction. Many residents raised their structures to multiple storeys. While building G+1 and more storeys, many families have had to make extra legal payments to the police. Many karkhanas were set up and were functional till before the recent fire. There was also an active market for property rights in relation to the tenements in the basti. Many people purchased rights through power of attorney in recent years from residents who have been staying for several years. There was also a rental market. As mentioned earlier, more than half of the units were occupied by tenants. Tenants have given heavy deposits for renting tenements in the place.

One of the reasons why people have made heavy investments in this area both in building homes and workplaces is due to a perceived sense of tenurial security as authorities have implicitly and through various omissions allowed the people to occupy these premises. There has been no persistent or visible effort on part of the authorities to seek control of land.

In August 2011, a notice was served to some residents here by the MCGM informing them of the Bombay High Court's 2009 order which directs removal of structures not recognised as legal which fall within 10 metres on both sides of Tansa pipeline. The recipients of the letter were asked to submit requisite documents to prove if they are eligible for receiving alternate accommodation from government. The letter also stated that after three days, without further notice, their homes would be demolished. The residents submitted the documents and thereafter no demolitions took place.

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<sup>5</sup> <http://www.hindustantimes.com/mumbai/garib-nagar-slum-plot-has-no-owner/story-wDBfPhxOxr6dOFMB1cck2N.html>.

<sup>6</sup> <https://timesofindia.indiatimes.com/city/mumbai/Garib-Nagar-land-belongs-to-rlys-Govt/articleshow/7838361.cms>

From August 2011 to April 2017, no further notice appears to have been issued on the Tansa pipeline matter. In April 2017, MCGM issued a notice to residents once again highlighting the Bombay high court order. The recipients of the letter were informed that their houses/enterprises were located within 10 metres of the pipeline. They were asked to submit the relevant documents within 7 days to prove eligibility for alternate accommodation. However, no action was taken for many months thereafter.

In January 2017, a notice issued from engineering dept of Western Railways stating that the residents are illegally occupying land. They were asked to vacate the premises by 12<sup>th</sup> January 2017 and warned that demolitions with force would be carried out on 16<sup>th</sup> January. Several residents moved the Bombay high court against the demolition notice. They say that in the history of the settlement the railway officials have not asked them to pay rent for occupying or using their land. They have never conducted any survey of the people staying on the premises. Thus, the residents refused to move out unless alternate accommodation is provided to them.

Thus, there exists among the residents here a strong sense of entitlement over the land due to long duration of stay, major investment in building or occupying houses and routine interaction with authorities. To emphasise, this sense of entitlement is legitimated and sustained by various agencies of the State over the years as illustrated above.

#### **5. Arrest of local persons and irresponsible statements by the police**

There is likelihood that the confession made by the arrested person about starting the fire has been extracted under pressure. Some local residents the FF team spoke to have alleged that Shabir Khan was beaten up in police custody and forced to take responsibility for setting the fire. The locals have also alleged that the police are trying to find scapegoats from among the residents given the acute carelessness and lack preparation reflected in the way the demolition drive was conducted by the government and which led to cylinder blasts.

The police have made statements to media linking the main accused and his accomplices with people who have been accused of creating trouble during the “Azad Maidan Riots” of 2012. The Azad Maidan violence had occurred in 2012 in a protest rally against atrocities on Muslims in Assam and Myanmar and led to two deaths and more than 50 injuries. The haste in which these connections are being made between disparate matters appears motivated to deflect the attention from mishandling of the demolition drive by the authorities. It is also highly irresponsible on part of police force to lend a communal character to the struggles of the Garib Nagar residents to save their homes.

The police have also made baseless allegations to the media. An India Today report carries this statement by a police official, *“Every six months, a fire takes place in that particular area. The idea behind fire is that once the houses are gutted in fire, the locals claim that all their documents are destroyed in the fire, and in*

*the same place, several new illegal homes come up."* This is a completely untrue statement which defames the residents and holds the residents guilty for destroying their own homes.

## **6. Resistance to relocation to Mahul Village**

The principal reason behind the present round of demolitions is the Bombay High court order to clear all structures within 10 metres on both sides of the Tansa pipeline running through the city. The project affected persons who can prove their eligibility are being shifted to Mahul village which is near Chembur. However, the families in Garib Nagar who have been identified eligible for alternate accommodation at Mahul village do not wish to relocate there. Mahul village is at considerable distance from the present site of Garib Nagar. People fear loss of livelihood due to the relocation. Commercial enterprises will be badly affected since their market for both raw material and final product is linked to Naupada. Also, the quality of life in Mahul village is poor. Transportation facilities linking the area to main roads and railways lines are few. It is also a heavily polluted area due to the chemical factories located in vicinity. It is not only Garib Nagar residents who do not wish to move to Mahul. There has also been stiff resistance from Tansa pipeline project affected persons in various areas who are being asked to move to Mahul village. Residents of Vidyavihar and Ghatkopar have refused to be relocated to Mahul due to lack of civic amenities and since it will be far from their workplaces.<sup>7</sup>

## **7. Underestimation of people eligible for rehabilitation**

The FF team met some residents who have proof that they have been residents of Garib Nagar since before 1.1.2000. For instance, Shaikh Rukasanabi has been issued voting card on 21/11/1994 with the address of Garib Nagar. Sheikh Roshanbibi who is around 60 years now had been issued voting card in 1994 with Garib Nagar as address. She also has a death certificate of her son who died in June 1995, issued in 1998. Some residents have a letter from MCGM issued in 1990 stating that they have voting card with address as Garibnagar. (see doc by Trishul). Several residents showed us copies of the voters list of 1993 in which their names are mentioned in the Kherwadi constituency. Yet all these residents had been issued eviction notices by the MCGM.

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<sup>7</sup> <http://www.hindustantimes.com/mumbai-news/in-mumbai-vidyavihar-sloum-dwellers-fear-loss-of-livelihood-refuse-to-move/story-0aoWLMit1AECr1iXemJ9TL.html>



Top Left and centre: Voting card of a resident with Garib Nagar Address that predates 1.1.2000; Top right: Voters list of 1993 which bears names of some residents

The FF team also came across some cases where people who own structures that predate the official cut off date have not been considered for rehabilitation. There are several people who have purchased homes in this area in last few years but the structures have been in place since before 2000 (though many had to be reconstructed after 2011 fire). We were shown power of attorney papers by some residents which depict that property relations are contractualised and sought to be given a legal-looking basis even though it may not be done in officially designated ways. Yet, their rightful entitlements have not been recognised by MCGM.

In 2014 Bombay High court passed an order in course of hearing the PIL on Tansa pipeline matter taking cognisance of the disputes involving present occupiers, who are not original occupants of the hutments/structures but whose homes predate the cut off date.<sup>8</sup> It has asked the government to take note of valid transfer documents to determine eligibility of the residents who had purchased the premises after the cut off date. In absence of such valid documents, the government can secure an undertaking from the individual occupant stating that if dispute arises with original/earlier owner after allocation of the alternate accommodation to the occupant, then the tenement is to be surrendered to MCGM. This shows that even the court has acknowledged the need to protect the owners who have purchased rights to occupy or use a structure that predates the cut-off date.

Thus, the FF team believes that there is a strong case for re-verifying all the documents of the residents for the purpose of determining eligibility for rehabilitation.

<sup>8</sup> <https://barandbench.com/wp-content/uploads/2016/07/Janhit-Manch.pdf>

## **RECOMMENDATIONS**

1. The municipal officials should be held responsible for conducting a demolition drive before the 48 hour deadline and for lack of preparation for managing possible disasters during demolition drive. A FIR should be registered against them for this criminal act.
2. MCGM should compensate the people for the economic losses incurred due to the fire. The compensation should not be tokenistic but should cover much of the financial losses.
3. There should be no forcible relocation of the residents eligible for alternate accommodation to Mahul village.
4. If the land is indeed owned by the railways, railway authorities should carry out a survey of the residents in the area along with the participation of people and draw a plan for rehabilitating and housing them. Until then, it should not conduct any eviction drives.
5. A more thorough examination of people's documents and claims to rehabilitation need to be made by the MCGM in a transparent and participatory manner. Until then, the state and its agencies should not obstruct the re-building of houses at Garib Nagar and should not carry out any further demolitions.
6. Lack of proof regarding cut-off date which is at present 1.1.2000 should not be used to delegitimize people's claims to avail rehabilitation.
7. There should be fair inquiry into the fire as well as into the allegations of forced confession by residents accused of starting fire.
8. The dargah walls which were demolished should be rebuilt, compensation must be paid and registration too must be done.