



सत्यमेव जयते

# Report of the Comptroller and Auditor General of India

## Performance Audit on Government land given on lease



**Government of Maharashtra**

**Report No. 5 of the year 2013**

**REPORT OF THE  
COMPTROLLER AND AUDITOR GENERAL  
OF INDIA**

**PERFORMANCE AUDIT ON GOVERNMENT  
LAND GIVEN ON LEASE  
FOR THE YEAR ENDED 31 MARCH 2012**

**GOVERNMENT OF MAHARASHTRA**

**(REPORT NO. 5 OF THE YEAR 2013)**

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## PREFACE

This Report of the Comptroller and Auditor General of India containing the performance of the Government land given on lease has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of the receipts of the State Governments and that of accounts of corporations and local bodies is conducted under Sections 16, 19(3) and 20(1) of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The audit was conducted between May 2012 and September 2012 through a test check of records of the Collectors at Mumbai City, Mumbai Suburban, Pune and development agencies viz. Mumbai Metropolitan Region Development Authority, Maharashtra Housing and Area Development Authority, Municipal Corporation of Greater Mumbai and Municipal Corporation of Pune.

## EXECUTIVE SUMMARY

Land is a premium asset and an important resource which contributes significantly to the economy of the State. Government lands not required for immediate use are given on lease to various individuals/institutions for various purposes such as residential, industrial, commercial and others. The leased lands also enable the Government to augment their revenue by levy of lease rent, premium/unearned income for change in use of the leased lands, development charges, transfer charges, etc.

The Government leases the land for various purposes such as agricultural, residential, industrial, commercial, social, etc. In Maharashtra the land is allotted through the Collectors and development agencies such as Municipal Corporation of Greater Mumbai (MCGM), Pune Municipal Corporation (PMC), Maharashtra Housing and Area Development Authority (MHADA) and Mumbai Metropolitan Region Development Authority (MMRDA) dealing with Government land. Government land is granted either on lease basis or on occupancy price.

Major findings during the course of Performance Audit on the lands leased by the Collectors and other development agencies are as follows:

### Chapter II: General observations

- The data on leased land was not complete in the Collectorates.  
**(Paragraph 2.1)**
- There was no uniformity in the procedures for allotment of land among the Collectorates and the development agencies.  
**(Paragraph 2.2)**
- There was lack of transparency in grant of land on lease as publicity through advertisement in newspapers, etc., was not resorted to.  
**(Paragraph 2.3)**
- Information received from the Collectorates at Mumbai City, Mumbai Suburban and Pune revealed that out of 1,766 lease cases, 757 leases had expired between 1940 and 2008; while in MCGM in 17 cases leases had expired. No action was taken for their renewal or eviction from leased land.  
**(Paragraph 2.5.1)**
- Though Section 53 of MLR Code provides for eviction of the lessee after giving reasonable opportunity of being heard in case of breach of conditions of lease, the Department was regularising the breach by levying premium/unearned income as per the Government Resolution (GR) issued in November 1957 which was incorrect.  
**(Paragraph 2.5.2)**
- Recoveries of various components of land revenue such as unearned income/premium, lease rent, additional lease rent, redevelopment charges, transfer charges were being effected through executive orders



(GRs and memoranda) and the GRs and memoranda are issued without drawing reference to the codal provisions.

**(Paragraph 2.5.3)**

- GR of October 1999 provides for levy of revised lease rent on the basis of market value of land. Aggrieved by this GR, the lessees approached the Mumbai High Court claiming the revised lease rent to be high. The Court laid down certain parameters for fixing the lease rent in August 2004. However, even after a lapse of eight years no action for revision of lease rent had been taken.

**(Paragraph 2.6)**

- Monitoring, co-ordination and internal control measures were inadequate in the Collectorate as inspection of leased lands to ensure compliance to the conditions of lease as well as utility of land for the allotted purpose was lacking. Even in cases where breaches were detected, follow up mechanism was absent due to which action was not taken to its logical conclusion for evicting the erring lessees as provided in the MLR Code.

**(Paragraph 2.7.1.1)**

- Committee constituted for detection and penal action on breaches in Mumbai City was almost non-functional since its inception. Constitution of such committees was not even envisaged by the Government in other districts.

**(Paragraph 2.7.1.2)**

- In Mumbai City though internal audit was conducted, remedial action on the observations were yet to be taken and in Mumbai Suburban and Pune Districts no internal audit was conducted indicating that the internal control measures were weak.

**(Paragraph 2.7.2)**

- Data on arrears of land revenue was not complete due to which effective action could not be taken.

**(Paragraph 2.8.2)**

**Chapter III: Collector, Mumbai City**

- In five cases, while computing the redevelopment charges, the Department valued the land at the rate of one FSI instead of 1.33 FSI. The revenue potential forgone in the shape of redevelopment charges/transfer charges aggregated to ₹ 5.89 crore.

**(Paragraph 3.2)**

- In four cases breach of terms and conditions of lease agreements of land on lease admeasuring area of 39,151.37 sq m was noticed. Of these in two cases the gradual relaxations and concessions allowed to the lessees resulted in undue favour.

**(Paragraph 3.3.1 to 3.3.4)**

- The Ayurved Prachar Sanstha sub-leased five floors of its building to a Central Government Department (Income Tax) on annual rent of ₹ 4.25 lakh in 1976, contrary to the terms and conditions of the sanction order which stipulated that the land shall be used only for running Ayurvedic College and ancillary purposes. Further, the Department had not executed a lease agreement with the Sanstha.

**(Paragraph 3.3.5)**

- A lessee sold the lease rights of leased land without approval of the Collector to Chunilal Co-operative Housing Society which constructed a 16 storey building on the land. The period of lease expired in 1991, however, no action had been taken for renewal/eviction.

**(Paragraph 3.4.1)**

- Superintendent, City Survey and Land Records found that a Gymkhana encroached 4,268.81 sq m of land adjoining the land leased to it. Though eight years had elapsed after the encroachment was detected no action for eviction/regularisation as prescribed in the MLR Code had been initiated by the Department.

**(Paragraph 3.4.2)**

#### **Chapter IV: Collector, Mumbai Suburban**

- A lessee while applying for grant of land on lease had not submitted the mandatory documents required for grant of lease. Despite this, the Government allotted 2,880 sq m land to the institution.

**(Paragraph 4.1)**

- A lessee violated the terms and conditions of lease from time to time. However, the land was not resumed even after a lapse of 28 years. Through repeated violations the lessee gained financially at the cost of the state exchequer.

**(Paragraph 4.2.1)**

- It was noticed that on land admeasuring 15,461.23 sq m allotted on lease in 1985, for a period of 30 years, only a shed had been constructed and the remaining land was lying idle. No action was taken in the matter to resume the land.

**(Paragraph 4.2.3)**

- The Government granted (July 1978) land admeasuring 16,722.54 sq m to a Trust for a lease period of 99 years on an annual rent of ₹ one for construction of hospital-cum-medical college. But no medical college was constructed on the plot. Instead only a hospital-cum-research centre was functioning on it.

**(Paragraph 4.2.5)**

- The State Government leased (November 1966) land admeasuring 984.76 sq m (1,177.77 sq yards) to M/s Gannon Dunkerly and Co. Ltd. at Santacruz, Mumbai, for industrial purpose for a period of 99 years. The lessee failed to develop and use the land. The rights were

transferred to a party and then to another party without any development. Despite this, land was not resumed.

**(Paragraph 4.2.6)**

- The Government in November 1941 leased out land admeasuring 1,882.89 sq m at Juhu, Mumbai to Maharaja of Jodhpur, for the development of a garden for a lease period of 50 years. He sold the leased land to M/s Juhu Beach Resort Pvt. Ltd. in September 1984. Instead of resuming the land, the Collector regularised the unauthorised sale of land.

**(Paragraph 4.2.9)**

- Unauthorised sale and transfer of plots in Bandra to developers were noticed by the Collector in respect of 31 out of 48 plots. No penal action was proposed/taken by the Collectorate despite Government directives in this regard.

**(Paragraph 4.2.11)**

- M/s Jolly Boards Ltd. entered into (December 2005) a development agreement without prior permission of the Collector for construction of an IT park and for carrying out residential and commercial activities on the land admeasuring 39,690.85 sq m at Kanjur allotted in 1985. Contrary to the lease conditions that there should be no third party interest, the developer got 52.5 *per cent* share in the property creating third party interest.

**(Paragraph 4.2.12)**

- In April 1974 land admeasuring 10,206 sq m was allotted to a lessee for industrial purpose which remained unutilised till 2006 on the ground that it was under encroachment. However, the same lessee found the very land fit for residential and commercial purpose. He applied for the change in land use from industrial to commercial/residential purpose which was allowed by the Department.

**(Paragraph 4.2.15)**

- In two cases, land admeasuring 1,86,446.06 sq m was under encroachment, action for eviction as provided in the MLR Code was not taken, despite a lapse of 19 and 60 years, respectively.

**(Paragraphs 4.3.1 and 4.3.2)**

## **Chapter V: Collector, Pune**

- In two cases, the Department did not verify the fulfilment of the mandatory conditions before the grant of land on lease. In two other cases the lease agreements were not executed, despite a lapse of 29 and 47 years, respectively.

**(Paragraphs 5.1 and 5.2)**

- In seven cases the lessees had not commenced construction of the schools for which lands were granted, the lands were lying vacant and had not been resumed despite lapse ranging from nine to 26 years.

**(Paragraph 5.3)**

- In two cases, the leased lands were not being utilised for the purpose for which it was allotted by the Government. Of these, in one case the property allotted for educational purposes was being partly used for commercial purpose while in another case the land allotted for the construction of a swimming pool and a stadium was being utilised as football and parade ground.

**(Paragraph 5.4)**

- Land admeasuring one lakh sq m allotted to Maharashtra Gandhi Samarak Nidhi on lease was not utilised despite a lapse of 19 years. It was encroached upon by 288 slum dwellers. No action was taken for removing the encroachments.

**(Paragraph 5.6.2)**

#### **Chapter VI: MMRDA**

- In six cases additional lease premium aggregating ₹ 272.36 crore due to non-completion of construction within the stipulated period was not recovered.

**(Paragraph 6.4.1)**

- Recovery of lease premium and penal interest totalling to ₹ 9.39 crore for additional built-up area (BUA) was not effected.

**(Paragraph 6.4.2)**

- Short determination of built-up area resulted in forgoing of revenue amounting to ₹ 3.12 crore in one case.

**(Paragraph 6.4.3)**

- Fixing reserve price for lease of a plot without considering prevailing market price resulted in loss of lease premium of ₹ 205.91 crore.

**(Paragraph 6.4.4)**

- Absence of an effective follow-up mechanism for recovery resulted in outstanding dues of ground lease rent of ₹ 67.85 lakh for periods ranging from one to seven years as on 31 March 2012.

**(Paragraph 6.4.5)**

- Failure of MMRDA to inspect the construction to ensure adherence to the terms and conditions of the lease agreement resulted in violation of the tripartite agreement among State Government, MMRDA and developer.

**(Paragraph 6.5.2)**

#### **Chapter VII: MHADA**

- In two cases, lands were lying idle for nine and 12 years, respectively but were not resumed, while in another case, land was sub-leased without the approval of MHADA.

**(Paragraph 7.3)**

- In one case, land comprising mangroves was allotted in violation of High Court orders.

**(Paragraph 7.4.1)**

- In two cases, possession of land was handed over to the lessees prior to the date of agreement; the lessees did not complete construction within the stipulated period in these cases, despite this, no action was taken against the lessees.

**(Paragraph 7.4.2)**

- In three cases, incorrect application of rate resulted in short recovery of lease premium by ₹ 3.45 crore.

**(Paragraph 7.5.2)**

- Six lessees had not paid lease rent of ₹ 1.93 crore for periods ranging from 10 to 16 years.

**(Paragraph 7.5.3)**

### **Chapter VIII: MCGM**

- Instead of resuming the land from six mills, on their having shut down, three mills were allowed change of use from industrial purpose to commercial/industrial purposes by MCGM resulting in financial gains to the lessees.

**(Paragraph 8.2.1)**

# CHAPTER I

## INTRODUCTION

### 1.1 General

Land is a premium asset and an important resource which contributes significantly to the economy of the State. Government lands not required for immediate use are given on lease to various individuals/institutions for various purposes such as residential, industrial, commercial and others. The leased lands also enable the Government to augment their revenue by levy of lease rent, premium/unearned income for change in use of the leased lands, development charges, transfer charges, etc.. Different Government organisations are dealing with leasing of Government land at Mumbai and Pune. These are through the Collectors of Mumbai City, Mumbai Suburban and Pune, Mumbai Metropolitan Region Development Authority (MMRDA), Maharashtra Housing and Area Development Authority (MHADA), Municipal Corporation of Greater Mumbai (MCGM) and Pune Municipal Corporation (PMC). The grant of lease of land is governed by various provisions of the Maharashtra Land Revenue Code, 1966 (MLR Code), Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971, Government Resolutions, Circulars, Memoranda, etc. and concerned Acts of the various development agencies such as MHADA, MMRDA and Municipal Corporations.

The powers of Collectors in respect of leased lands are vested in the following Sections of the MLR Code:

1. Section 38 confers upon the Collector the power to lawfully lease under grant or contract any unalienated unoccupied land to any person for such period for such purpose and on such conditions as he may, subject to rules made by the State Government, determine.
2. Section 53 confers upon the Collector the power to evict, after giving a reasonable opportunity of being heard, any person unauthorisedly or wrongfully occupying the Government land by reason of expiry of lease period or termination of lease or breach of conditions of lease.

### 1.2 Organisational set-up

The monitoring and control of Government land given on lease at Government level is done by Additional Chief Secretary, Revenue & Forest Department (R&FD), Government of Maharashtra, Mumbai. The superintendence of the leasing of land is vested with the 35 Collectors in the State. They are assisted by the Sub Divisional Officers and Tahsildars in their respective districts. The District Plan<sup>1</sup> is prepared by Town Planning Department under the Urban Development Department (UDD) in consultation with other Government Departments. The same record is maintained by City Survey Officer working

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<sup>1</sup> A District Plan is prepared by a committee constituted for this purpose at the district level for planning at the district and below. The Committee in each district should consolidate the plans prepared by the Panchayats and the Municipalities in the district and prepare a draft development plan for the district.

under the Director of land records and Settlement Commissioner, Revenue Department, Maharashtra State.

In respect of development agencies viz. MMRDA, MCGM and PMC (under the UDD) and MHADA (under the Housing Department (HD)), the details of organisational set up are given in the respective chapters, viz. VI, VII and VIII respectively.

### **1.3 Audit objectives**

For this performance audit three major districts<sup>2</sup> in Maharashtra were taken up as the land cost in these cities has been increasing, so as to ascertain whether the grant of Government land on lease was in accordance with the existing Act, Rules and Regulations, Government Resolutions (GRs), etc.

Test check of the records of Government land given on lease was conducted with a view to ascertain whether:

- the grant of Government land on lease was in accordance with the existing provisions of the concerned Act(s), Rules and Regulations, GRs, etc., framed by the Government from time to time;
- there exists a proper monitoring/mechanism to ensure that the process of allotment was transparent, terms and conditions of lease of the land/renewal of lease exist and were being followed uniformly;
- system and procedures in the Department to ensure correct assessment and timely collection of the lease rent and renewal of expired leases are adequate;
- action was taken for resumption of non-utilised land allotted on lease and breach of conditions of lease agreement/renewal of leases are followed up and dealt with as per the provisions of the MLR Code; and
- action was taken by the concerned competent authority to evict the encroachments found on the leased Government lands.

### **1.4 Audit criteria**

The audit criteria for Performance Audit were derived from the provisions of the following Acts, Rules, GRs and notifications/orders issued there under:

#### **For grant of lease by the Collectorates**

- Maharashtra Land Revenue Code, 1966
- Maharashtra Land Revenue (Disposal of Government Lands) MLR (DGL) Rules, 1971
- Maharashtra Land Revenue (Conversion of use of land and non-agricultural assessment) Rules, 1969
- Village, Town and City Survey Rules, 1969
- GRs, orders, circulars, etc. regarding leased lands and its assessment, levy and collection of revenue

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<sup>2</sup> Mumbai City, Mumbai Suburban District and Pune.

#### **For grant of lease by MHADA**

- Maharashtra Housing and Area Development Authority Act, 1976
- Maharashtra Housing and Area Development (Disposal of Land) Rules, 1981
- Maharashtra Housing and Area Development (Disposal of Land) Regulations, 1982
- Any general policy matters communicated through GRs, circulars, etc.

#### **For grant of lease by MMRDA**

- MMRDA Act, 1974, for planning and co-ordination of development activities in the Mumbai Metropolitan Region
- MMRDA (Disposal of Land) Regulations, 1977, as amended from time to time
- Any general policy matters communicated through GRs, circulars, etc.

#### **For grant of lease by MCGM**

- Mumbai Municipal Corporation (MMC) Act, 1888
- Any general policy matters communicated through GRs, circulars, etc.

### **1.5 Definitions**

The definitions of the various terms as per the MLR Code used in the Performance Audit are given in **Appendix-I**.

### **1.6 Procedure of allotment in the Collectorates**

On receipt of application from individual/trust/institution/co-operative society etc., for grant of land on lease for any specified purpose (education, residential, industrial, commercial and other purposes), the Collector initially ascertains the availability of land and its status as per development plan from the Tahsildar and Survey Officer and on receipt of the same prepares a proposal after obtaining the necessary documents and submits the same to the Government for obtaining sanction. On receipt of the sanction from the Government, the Collector issues an allotment order to the lessee spelling forth the terms and conditions of lease and the purpose, area, lease rent, period, etc., which is followed in the execution of lease agreement.

The procedures followed by MHADA, MMRDA and MCGM are brought out in the respective chapters.

### **1.7 Scope and methodology of Audit**

The Performance Audit of the records of leases granted by the District Collectors of Mumbai City, Mumbai Suburban and Pune up to 31 March 2012 was conducted between May and September 2012. The records of other agencies such as MCGM, PMC, MHADA and MMRDA which are also responsible for grant of land on lease were selected for the Performance Audit.



Selection of these three districts was based on the cost of the land that has shown a steep rise in these districts as compared to other districts. Selection of the cases was based on analysis of parameters such as the value of the land, locality, area, usage, duration of lease, etc.. The leases granted before and after independence, which are in operation, or lands that are in occupation of the lessees after the expiry of the lease periods, have also been selected for this audit.

The number of lease cases as provided by the various offices selected for test check and the sample cases test checked are as follows:

Name of office selected for test check	No. of lease cases	Sample selected	Remarks
Collector, Mumbai City	1,257	320	All relevant records relating to 223 cases were produced whereas for the remaining 97 cases, only copy of lease deeds, property cards and extract of the land lease information system were furnished.
Collector, Mumbai Suburban	295	74	All cases produced.
Collector, Pune	214	55	22 cases fully produced. The balance 33 cases were incomplete.
MHADA	112	40	All cases produced, except two.
MMRDA	152	53	All cases produced.
MCGM	184	52	All cases produced.
PMC	2	2	Only one case produced.
<b>Total</b>	<b>2,216</b>	<b>596</b>	

The draft Performance Audit Report was forwarded to the Government in November 2012. The audit conclusions and recommendations in respect of Collectorates were discussed in the exit conference held in January 2013 which was attended by the Additional Chief Secretary, R&FD, Dy. Secretaries, respective Collectors and other senior officials from the Department. The audit conclusions and recommendations in respect of MMRDA, MHADA and MCGM were discussed in the exit conference held in February 2013 which was attended by the Principal Secretary, UDD, Vice President and Chief Executive Officer/MHADA, Additional Metropolitan Commissioner/MMRDA, Additional Municipal Commissioner/MCGM and other senior officers from the respective Departments. The replies given during the exit conferences and at other points of time have been appropriately included in the relevant paragraphs.

## **1.8 Audit constraints**

After examining the files at the Collectorates of Mumbai City, Mumbai Suburban and Pune, it was found necessary to examine the records of some cases at Government level for which records were requisitioned from the R&FD in Mantralaya. However, the R&FD informed that all the records were destroyed in the fire which took place on 21 June 2012. Due to non-availability of records in respect of the above cases at Mantralaya, we could

not examine the considerations based on which the sanctions, relaxations in conditions, concessions/discounts/rebates in lease rents, etc., were allowed.

## **1.9 Acknowledgement**

Indian Audit and Accounts Department acknowledges the co-operation of the R&FD, UDD and the HD as well as Collectorates, MHADA, MMRDA, MCGM and PMC for providing necessary information and records to audit. The criteria for selection of records of leased cases for scrutiny is explained in the Paragraph “Scope and methodology of Audit” *ibid.* Entry conferences for the Performance Audit were held on 7 August 2012 with Additional Chief Secretary, R&FD and the Collectorates and on 23 August 2012 with Principal Secretary, HD, Municipal Commissioners and other senior officers of MHADA and MMRDA. The Executives were informed about the scope, objective and criteria for selection of cases and methodology of audit. The Additional Chief Secretary, R&FD, the Principal Secretary, HD and the Municipal Commissioners explained the various aspects of Government land which are given on lease and its administration and implementation.

## CHAPTER II

### GENERAL OBSERVATIONS

The general observations made and conclusions drawn during the course of audit are brought out in this Chapter.

#### 2.1 Incorrect maintenance of lease records

As per the Government instruction dated 22 February 1996, the Collector is required to maintain a land distribution register containing the details of Government land, *i.e.* name of grantee, area, purpose, period of grant and terms and conditions, etc. Further, periodic review of the said register is also required to be carried out so as to keep track of the cases of expiry of lease period, breach of conditions of lease, etc..

Audit made a comparison between information on leased lands obtained from the Collectorates with individual lease records and property cards available in the files and the following discrepancies were noticed:

- Names of the lessee did not tally in 12 cases in Mumbai City.
- Lease periods did not tally in 10 cases in Mumbai City.
- Area of land given on lease did not tally in 30 cases in Mumbai City with the variation ranging from (-) 10,000 sq m to 4,312 sq m and in 10 cases in Mumbai Suburban with the variation ranging from (-) 4,000 sq m to 4.47 lakh sq m.

Further, in case of Collector, Pune, a list of 214 cases was furnished to audit in May 2012 and in October 2012 the number of cases was revised to 258.

The above facts indicated that the data was not maintained correctly. Since maintenance of the data is vital in monitoring of leased lands, it is recommended that correct data may be maintained.

The Collectorates may get the data maintained in the register and reconcile it with the information available in the individual lease records as well as the property cards.

In the exit conference the Additional Chief Secretary directed all the Collectors to maintain records properly in the proforma prescribed.

#### 2.2 Non-uniformity of norms for the leasing of land

Lands on lease are given by the Government, MMRDA, MHADA and MCGM. During the course of the Performance Audit it was noticed that there was no uniformity in the procedures adopted for grant of lease of land by the agencies which are given in **Appendix-II**. A few of them are discussed as follows:

##### 1. Procedure for allotment

The Collectorates/Government, MMRDA, MHADA and MCGM were adopting different methods in leasing of Government land. MMRDA was leasing land through auctions, MHADA gave land on lease under Regulation 16 as per the directives of the Government, whereas in MCGM and

Collectorates, land was allotted on the basis of applications received from individuals, institutions, etc..

## **2. Procedure for levy and collection of lease rent and lease premium**

Different methods were being adopted by different agencies for levy of lease rent and lease premium. The Government was levying lease rent on the basis of the ready reckoner while in MCGM and MMRDA, the lease rent was being levied considering the maximum permissible Floor Space Index (FSI), whereas in respect of MHADA, lease rent was fixed on the basis of resolutions issued from time to time. MMRDA recovered a one time premium equal to the value of the plot at which it was auctioned at the time of lease agreement and levied a nominal lease rent thereafter. In respect of MHADA lease premium was fixed on the basis of resolutions issued from case to case and lease rent for the entire lease period was either taken as one time capitalised lease rent at the time of agreement or was recovered annually as decided in the resolutions. In respect of Collectorates and MCGM there was no policy to collect one time lease premium and lease rent ranging from ₹ one to amounts based on prescribed percentages of market value was being charged based on the extant orders and circulars.

## **3. Standard form of lease agreement**

It was seen that only MMRDA had provided for a standardised form of lease agreement in its Regulations. The leases given by MMRDA were for a period of 80 years whereas in respect of other agencies fresh lease or lease renewal was being done for a maximum period of 30 years.

## **4. Monitoring mechanism in respect of leased lands**

Periodical monitoring of leased lands for detecting breach of lease conditions was absent in MMRDA and MHADA, weak in the Collectorates while MCGM has introduced a system of monitoring as late as in March 2012.

## **2.3 Lack of transparency in grant of leases of Government land**

In order to bring transparency in allotment of land to co-operative housing societies, Government made a policy vide GR No. G-4 issued in May 1983 and GR No. G-1 issued in May 2007. It was decided that in cases where adequate plots are available for allotment under any lay out sanctioned by the local authority, the Collector should advertise in the local newspapers for the information of the general public so that people could form societies and apply for allotment of land for Co-operative Housing Societies (CHS). The applications received by the competent authority were to be scrutinised and proposal submitted to Government for approval. This was found necessary due to the fact that applications for allotment of land were being received only from those people who were aware of the availability of Government land and due to lack of publicity, many deserving people could not apply due to which they were not able to avail of the benefit of the policy.

During the scrutiny of 319 lease cases (including cases of CHS) of Mumbai City, Mumbai Suburban and Pune which were produced in complete form out of 449 sampled cases, we did not come across any case where selection of eligible persons was made on the basis of applications received from co-operative societies/persons in response to advertisements for the purpose of

allotment of Government land on lease, indicating that the procedure was not being followed by the Department. No advertisements for the vacant lands to be granted/re-granted on lease were being issued.

**Government may consider directing the Collectors to give wide publicity for grant of vacant lands on lease so as to make the process of allotment transparent.**

In the exit conference the Additional Chief Secretary accepted the recommendation and stated that the GR issued in this regard would be implemented and that in cases of lands to be allotted for educational purpose, hospitals, etc., the decision would be taken after examining the matter.

## **2.4 Preparation of model lease agreement**

A format for grant of “lease” of land to educational institutions or local authorities and for gymnasiums to be used as a playground/gymnasium or for other recreation purposes is provided in the MLR Code. Though lands are also given for other purposes, such as, industrial, commercial, residential, etc., no format for such lease agreements incorporating conditions specific to such purposes are incorporated in the MLR Code.

In this regard it is pertinent to mention that many of the lands given on lease by the Government date back to the pre-independence era and the lease agreements *inter alia* provide for rights of assignment/transfer or alienation and inheritance. In some cases, the lease conditions also state that the authority would renew the lease for a further period on the same terms and conditions on expiry of the lease period. In some other cases the lease agreements do not envisage permission of the competent authority or payment of unearned income to recognise or legitimise the assignment/transfer of leased land or prevent entering into development agreements.

In order to protect the interests of the leased property as well as the land revenue involved, it is necessary to enact laws to prevent the lessees of the past as well as fresh lessees from taking undue advantage of absence of conditions in the codal provision as well as in the lease agreements. In addition, the requirement of a periodical return to ensure fulfilment of purpose for which land was granted on lease may be necessary in a model lease agreement.

**The Government may consider enactment of a law to enforce the necessary conditions on subsisting leases in consultation with Law and Judiciary Department to safeguard leased property and land revenue.**

**The Government may also consider preparing a ‘Model Lease Agreement’ and incorporate the same in the Code/Rules.**

## **2.5 Implementation of MLR Code**

### **2.5.1 Non-renewal of expired lease cases**

Under the provisions of the MLR Code, 1966 and the rules framed thereunder, Government land can be leased out to any person for such period and purpose and on such conditions as may be determined in this regard. The grantee of

such land shall be called Government lessee and shall pay lease rent for the lease period as per the terms and conditions of the lease. Further, under the Code, the Collector is empowered vide Sections 53 and 242 of the MLR Code to evict a person holding land unauthorisedly by reason of expiry of lease. The lessee shall also be liable to pay penalty not exceeding two times the assessment of rent for the land for the period of such unauthorised use or occupation.

Information furnished by the Collectorates at Mumbai City, Mumbai Suburban and Pune revealed that out of 1,766 lease cases, 757 had expired between 1940 and 2008 and were pending renewal.

During test check of the lease cases of the Collectorates, we noticed that in respect of 153 cases the lease had expired between 1947 and 2011 (**Appendix-III**). The Collector-wise breakup is as follows:

Collectorate	Residential	Commercial	Industrial	Educational and Social	Others	Total
Mumbai City	74	3	9	-	11	97
Mumbai Suburban	12	10	-	11	4	37
Pune	3	1	-	14	1	19
<b>Total</b>	<b>89</b>	<b>14</b>	<b>9</b>	<b>25</b>	<b>16</b>	<b>153</b>

In January 1971, the Collector of Bombay had approached the Government regarding treatment to be given in respect of expired leases. However, no further action taken or any clarification issued in this regard by the Government was found on record. This was due to the fact that there was no express provision in the lease agreements issued in the past requiring the lessees to approach the Government for renewal of lease before the expiry of lease period.

In MCGM, in 17 cases (Residential – 2, Commercial – 13, Industrial – 1, Others – 1) as detailed in **Appendix-III**, the lease periods had expired between 1996 and 2012. However, no steps were taken by the MCGM for renewal of the leases under Section 91B or for eviction under Section 105 of the MMC Act, 1888.

Failure of the Departments to renew the lease agreements in time resulted in lessees continuing to occupy the premises paying old rate of lease rent even after expiry of lease period and in wrongful occupation of premises and perpetual revenue loss to the Government due to non-revision of lease rent.

In the exit conference the Government stated that decision to renew expired leases has been taken and a GR to this effect has been issued on 12 December 2012 wherein option for converting the lease hold land into the occupancy right, conversion charges payable and determination of lease rent or renewals etc., have been prescribed.

### **2.5.2 Absence of provisions in the MLR Code for levy of premium (unearned income) for regularisation of breaches**

According to Section 53 of the MLR Code, if in the opinion of the Collector any person is unauthorisedly occupying or wrongfully in possession of any

land by reasons which *inter alia* include breach of any conditions annexed to the tenure, the Collector may remove him from such land after giving the person reasonable opportunity of being heard. Such a person is also liable at the discretion of the Collector to pay penalty not exceeding two times the assessment of rent for the period of such unauthorised use or occupation. The said Section does not provide for any regularisation of the unauthorised occupation.

As per Resolution issued by the Government of Bombay in Revenue Department on 21 November 1957, the Collector may grant permission for sale of non-agricultural plots, conversion of new tenure into old tenure and regularisation of unauthorised sale of new tenure plots on payment of “premium”. The premium is recoverable at 50 *per cent* when the plot is used for residential purpose and at 62.5 to 75 *per cent* for industrial and commercial purpose. In case prior permission for such transfer/sale/assignment is not obtained from the Government, the premium at the rate of 62.5 to 75 *per cent* is recoverable in all cases. The premium amount is equal to the difference between the sale price to be approved by the Collector and the original price (occupancy price) paid to Government plus the value of improvements made in the plot by the grantee.

As far as levy of unearned income in respect of lands given on lease is concerned, there is no provision in the Act. However, the Department has been levying unearned income in cases of transfer of lease lands instead of resuming the lands under Section 53 of the MLR Code.

During the course of the Audit, it was noticed that the Department had regularised transfer of leased land, after levy of premium in seven cases (**Appendix IV**). However, in three other cases (**Appendix V**) wherein the lessees had transferred the plots to others during the period from 1981 to 2011, no action was taken by the Department to compute and recover the premium.

After we pointed out these cases, the Collector, stated that provisions of the GR dated 21 November 1957 had been repealed in the Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971, hence not applicable to Mumbai City. It was further stated that there was no provision in the MLR Code for levy of premium. In respect of the seven cases where demands had been raised, it was stated that the said GR had been challenged in the Mumbai High Court.

Though premium (unearned) as stated above was not recoverable it was found in audit that the Collectorate continued to compute and send proposals to Government and issued demand notices for recovery of unearned income.

Notwithstanding the fact mentioned above regarding absence of an express provision in the Code for recovery of premium/unearned income, we noticed that even the GR issued in 1957 was not applied correctly. There was non/short levy of premium/unearned income in 12 cases amounting to ₹ 341.50 crore in Mumbai City and in seven cases amounting to ₹ 203.44 crore in Mumbai Suburban District, aggregating ₹ 544.94 crore (**Appendices IV, V and VI**). These mistakes had occurred due to application of incorrect rates for valuation of land, incorrect computation, etc. There was no

mechanism to ensure that the premium/unearned income was correctly levied and recovered.

**The Government may enact suitable provisions for levy and recovery of unearned income and for ensuring that all the lessees obtain prior permission before transferring the lease lands.**

In the exit conference the Additional Chief Secretary stated that necessary amendments would be made in the MLR Code for levy of unearned income.

### **2.5.3 Recovery of lease rent, etc., through Government Resolutions, etc. without drawing reference to MLR Code**

The State Legislature has power to direct levy of revenue on all lands so long as the exigencies of the State may render such levy necessary. That power is restated in the proviso to Section 64 of the MLR Code.

During audit, we noticed that GRs, Circulars, and Memoranda (for individual lease cases) are being issued for fixation and recovery of lease rent, premium (unearned income), redevelopment charges, transfer fee and licence fee in respect of land given on lease and also other matters. These GRs, Circulars and Memoranda issued by the Government did not however draw reference to the codal provisions (**Appendix-VII**).

In view of above, it is recommended that the GRs relating to components of land revenue, such as, lease rent, premium (unearned income), redevelopment charges, transfer fee and licence fee may draw reference of the relevant provisions of the MLR Code.

In the exit conference the Additional Chief Secretary stated that requisite amendments had been proposed in MLR Code for levy of redevelopment charges, licence fee, transfer fee, etc.

### **2.6 Non-revision of lease rent**

In October 1999, Government issued a Resolution for fixing lease rent based on the market value of the property as per the Ready Reckoner prepared by the Inspector General of Registration, Maharashtra State, Pune and the Collectorate issued demand notices accordingly. Aggrieved by the demands so raised on the basis of the said GR, some of the lessees filed petition in the Mumbai High Court against the GR. Consequent to this, Government withdrew the G.R. issued in October 1999. The Mumbai High Court in its judgement dated 25 August 2004 laid down certain parameters for fixing the lease rent and also ordered that the proposed lease rent be communicated to the petitioners with the basis and the manner in which the amount is computed so as to enable the petitioners to make a representation against the same. It added that in the meanwhile, all the petitioners continue to pay the lease rent as per the old rates.

Though eight years have elapsed since the High Court laid down the parameters for fixation of lease rent/revised lease rent, action in the matter is still pending. Consequently, the revenue that would have accrued to Government stands foregone.



According to the current practice, fixing of lease rent and its periodic revision is always being done by means of GRs rather than by making legislative enactment.

In the exit conference the Government stated that a policy for revision of lease rent had been approved by the Cabinet and a GR issued on 12 December 2012. Further, Additional Chief Secretary stated that requisite amendments had been proposed in MLR Code for levy of redevelopment charges, licence fee, transfer fee, etc.

## **2.7 Monitoring and control**

### **2.7.1 Internal control**

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. It also helps in the creation of reliable financial and management information system for prompt and efficient service and for adequate safeguards for recovery of dues. We examined the adequacy of internal control and observed the following:

#### **2.7.1.1 Non-receipt of Action Taken Note (ATN) on Public Accounts Committee (PAC) recommendations**

With a view to tone up the land management procedures, the PAC in its 5<sup>th</sup> report of 2006-07 and 6<sup>th</sup> report of 2007-08, on the basis of paragraphs 3.10 (Audit Report 1997-98) and 4.2.7 and 4.2.10 (Audit Report 1998-99) had recommended a review every three months by the Collector on the extent of Government land given on rent, under encroachment etc. an enquiry on land allotments from 1947 to ascertain whether the lands were used for the purpose for which they were given, physical verification, eviction of encroachers, etc., as detailed in **Appendix VIII**. Though these recommendations were issued on 18 July 2006 and on 13 April 2007, the ATNs in respect of these recommendations have not been received from the Government (December 2012).

Despite the recommendations of the PAC, we noticed that monitoring, co-ordination and internal control measures were grossly inadequate in the Collectorates, as inspection of leased lands to ensure compliance to the conditions of the lease agreements as well as utilisation of lands for the purpose for which they were leased were lacking. Even in cases where breaches were detected, follow up mechanism was absent due to which action was not taken to its logical conclusion for evicting the erring lessees as provided in the MLR Code. This led to unauthorised sale/transfer, creation of third party interest and misuse for commercial gain. Audit observations are incorporated in the respective Chapters.

The Collector, Mumbai City stated that there is no staff for detection of breaches and due to inadequate staff action could not be taken in cases where breaches were already detected.

**Government may instruct the Collectorates to display on site the details of lease to ensure that the plot is not sold/transferred unauthorisedly.**

**Further, the Department may ensure that adequate staff is in place for carrying out the inspection of the leased lands for detection of breaches.**

### **2.7.1.2 Non-functioning of Breaches Committee**

The Government in R&FD vide GR No. J-2 issued in July 1995 decided to constitute a Breaches Committee so as to detect cases relating to breach of terms and conditions of lease agreement/deed and to levy fine on such lessees. The Committee was to consist of six members with the Collector, Mumbai City as the Chairman. The Collector was to inspect the leased properties and bring to notice the cases of breach of conditions to the Breaches Committee. The Committee in its monthly meeting was required to discuss the matter and consider levy of penalty and forward a proposal to the Government.

However, Superintendent, Mumbai City Survey and Land Records stated (September 2012) that the Breaches Committee was not functioning and that since 1995 only five meetings were held. This was stated to be due to absence of experienced staff as also reduction of existing staff by the Government.

The Collectors at MSD, Mumbai and Pune were asked about the existence of such a Committee and action taken by it; their replies are awaited.

**The Government may consider reviving the Committee constituted for detecting breaches.**

In the exit conference the Additional Chief Secretary accepted the recommendation and stated that this would be implemented in the other districts also.

### **2.7.1.3 Verification of utilisation of land for allotted purpose**

Land is granted on lease for residential, commercial, industrial, educational, social, medical, sports purposes, etc. As per Rule 6 and 7 of MLR (DGL) Rules, 1971 land can be given rent free or at nominal rent of ₹ one for specified purposes for a period not exceeding 15 years. Therefore the Department should ensure that the land is utilised for the purpose for which it is leased. However, there is no prescribed system of verification to ensure that land is being used for the purpose allotted.

During test check of the records of the Collectorates we noticed that in 30 cases admeasuring 7,83,996.28 sq m, information regarding the lessees having utilised the land for the purpose for which it was granted was not available. The sample lease agreement prescribed in MLR Code did not draw reference for submission of a “purpose fulfilment certificate” by the lessee. Further, as site visits for verification were almost negligible such breaches came to the knowledge of Government much later either leading to delayed action or litigation. These are discussed in the succeeding chapters.

**The Government may consider incorporating a “purpose fulfilment certificate” in the lease agreements and ensure its compliance through the Collectorates, as it would act as a deterrent against misuse/non-use of the leased land and also promote timely penal action. There should be a system of regular monitoring and verification by the Government Department.**

In the exit conference the Additional Chief Secretary accepted the recommendation and added that such certificate would be taken as a periodical return from the lessee.

## **2.7.2 Internal Audit**

### **COLLECTORS**

There are Internal Audit wings (IAW) in existence in the offices of the Collectors of Mumbai City, Mumbai Suburban District and Pune. However, periodical inspections are conducted by the IAW in Mumbai City only. Internal Audit upto 2010-11 has been completed. As per the information furnished by the Collectorate, 214 paras (separate information in respect of lease cases was not furnished) of IAW are pending clearance as of August 2012, out of which 180 paras related to the periods 1992-93 to 2003-04.

We called for details of outstanding paras and reasons for pendency in clearance. The Collector, Mumbai City stated that the details of paras were not readily available and added that the paras had not been complied with in the absence of adequate experienced staff. Thus, compliance to internal audit paras was inadequate.

Internal audit is an effective tool of the internal control mechanism, we recommend that immediate steps may be taken to comply with the paras raised in Mumbai City and to establish IAW in Mumbai Suburban and Pune Districts.

### **MHADA**

MHADA had not set up an Internal Audit wing, a fact which has been repeatedly commented upon in the Separate Audit Reports of MHADA. No monitoring system was in place by way of periodical verification/inspection of the leased land to ensure that the property was being used for the intended purpose.

### **MMRDA**

There is an Internal Audit wing for scrutinising accounts and other establishment matters. However, MMRDA (Disposal of Land) Regulations 1977, does not provide for monitoring the progress of work on the leased plots.

### **MCGM**

MCGM formulated guidelines for inspections and procedure to deal with the cases of breach of conditions as late as in March 2012.

## **2.8 Land revenue**

### **2.8.1 Trend of revenue**

The demand raised and recovery effected of lease rent in respect of Collectors at Mumbai City, Mumbai Suburban and Pune during the periods 2007-08 to 2011-12 as furnished by the Department are given below. The demand raised was constant through the period of review with a minor exception:

(₹ in lakh)

Year	Mumbai City			Mumbai Suburban District			Pune		
	Demand raised	Actual recovery	Percentage of recovery	Demand raised	Actual recovery	Percentage of recovery	Demand raised	Actual recovery	Percentage of recovery
2007-08	2,788.89	1,376.88	49.37	643.72	614.21	95.42	8.68	8.60	99.08
2008-09	2,788.89	1,635.68	58.66	644.97	562.80	87.26	8.68	8.65	99.65
2009-10	2,788.89	1,497.22	53.68	644.97	423.04	65.59	16.59 <sup>#</sup>	16.37 <sup>#</sup>	98.67 <sup>#</sup>
2010-11	2,788.89	1,561.53	55.99	644.97	728.07	112.88	8.68	8.69	100.12
2011-12	2,788.89	1,476.05	52.92	644.97	2,162.90*	335.35	8.68	8.57	98.73

# Increase on account of demand ₹ 7.91 lakh in one case in Pune, which was not done for the following years. \* Mazagon Docks Ltd. paid revised lease rent including arrears amounting to ₹ 1,536.79 lakh.

## 2.8.2 Arrears of land revenue

The District Collector/Tahsildar has the delegated power to initiate recovery proceedings by following any one or more of the processes prescribed under the MLR Code, 1966 and the Revenue Recovery Act, 1890. These Acts provide for attachment/auction of property and confinement of defaulters in jail if they failed to respond to the demand notices issued to them.

We called for (May 2012) the status of arrears of lease rent as of 31 March 2012, from the Collectors at Mumbai City, Mumbai Suburban District and Pune. Collector, Mumbai Suburban intimated arrears as ₹ 1.50 crore, while Collector, Pune City intimated that there were no such arrears.

The Collector, Mumbai City intimated that as against the total demand of ₹ 139.44 crore between 2007-08 and 2011-12, ₹ 75.47 crore was recovered, leaving a balance of ₹ 63.97 crore which is obviously in arrears. Action taken by the Collectors to recover the dues was not available on record.

The three Tahsildars under the Collector, MSD, namely, Andheri, Borivali and Kurla stated that lease rent of ₹ 21.78 crore was in arrears in eight out of 109 cases. In remaining 101 cases, there were no arrears. This information might not be complete, as out of 295 leased cases, data of lease rent in respect of 186 cases was not furnished by the concerned Tahsildars. Variation in above figures reflected absence of flow of information from Tahsildar to the Collector.

Thus, the position of arrears of lease rent, etc. was not complete. Under the circumstances it was absolutely necessary to have a category-wise register at Collectorates/Tahsildars/*Talatis* with full details for effective monitoring of arrears. The registers maintained at the Collectorates should be periodically reviewed and reconciled with the data available with the Tahsildars/*Talatis*.

Further, category-wise abstract of arrears of revenue could be prepared indicating the stages (such as in appeals with Department, Courts, etc.) so that senior management/middle management can consider remedial measures.

**Government may consider streamlining the procedure for maintaining data relating to arrears of land revenue, for taking timely action.**

In the exit conference the Additional Chief Secretary, agreed to formulate procedure for maintaining data on arrears of lease rent, etc. as recommended.

## **2.9 Non-recovery of amount relating to lessor's interest**

Section 126 of the Maharashtra Regional and Town Planning (MR&TP) Act, 1966 provides for acquisition of lands reserved in the Development Plan (DP) by the Planning Authority. The Development Control Regulations (DCR) for Greater Mumbai, 1991, contain provisions enabling the land owner to avail of Floor Space Index (FSI) in lieu of monetary compensation based on the concept of Transferable Development Rights (TDR). Section 126 (1) of the MR&TP Act, 1966, was amended in October 1993 to accommodate the concept of TDR which provided that whenever a Planning Authority acquires any land reserved in the DP by granting the land owner TDR against the area of land surrendered free of cost, the lessee must either pay the lessor or deposit an equal amount to the planning authority which is payable to the lessor as lessor's interest. This amount is to be determined on the basis of principles laid down in Land Acquisition Act, 1984. The Government in UDD vide Resolution dated 10 September 1996 confirmed the method of apportionment of interests of the lessor/lessee in respect of Government lands acquired by way of grant of TDRs.

On going through the MLR Code, we noticed that there is no provision for protection of lessor's (Government) interest when TDR is allowed for the area of land surrendered free of cost to the planning authorities.

**The Government may make provision in the Act for safeguarding its interest as lessor in the profits made by the lessee and recovery of the same.**

In the exit conference the Additional Chief Secretary assured that the matter would be looked into with a view to make provisions in the Act.

## **2.10 Instructions to local bodies to curb lessees from misuse of Government land**

During the course of the performance audit, it was noticed that the Municipal Corporation of Greater Mumbai (MCGM) had allowed development of the property in two cases without obtaining No Objection Certificate (NOC) from the Government and in one case had auctioned the land without the permission of the Government as detailed below:

- In the case of land leased to an individual for agricultural purpose, the individual entered into development agreement with a private builder for construction of residential flats for which permission was given by the MCGM without obtaining NOC from the Government. (Paragraph 4.2.16)
- In the case of M/s Chunilal Co-op Housing Society to whom the lease rights were sold by the lessee, the MCGM had permitted the lessee to utilise the FSI of adjacent encroached land without obtaining NOC from the Government. (Paragraph 3.4.1)

- In case of a trust held by an individual, MCGM had auctioned the land to M/s Jainam Construction without obtaining NOC from the Government. (Paragraph 3.3.1)

Since Government is the owner of the leased properties, MCGM should have obtained NOC from the Government before taking action in the above cases.

**The Government in R&FD may co-ordinate in the matter with the UDD and registering authorities in order to ensure that the sale/sub-lease of lease rights, clearance of development plans, building plans, etc. are not effected before obtaining NOC from the R&FD.**

## CHAPTER III

### COLLECTOR, MUMBAI CITY

This chapter contains the results of audit of the lands given on lease in Mumbai City. There were 1,257 lease cases out of which 320 cases were selected for detailed scrutiny. Of these 320 cases, in 97 cases, copy of the lease deed, property card and land lease information system alone were furnished. We have noticed 162 irregularities, these are mentioned below:

Sr. No.	Category	No. of observations
1.	Breach of lease conditions relating to change in purpose, transfer of leasehold rights	34
2.	Action for eviction not taken in case of breach of conditions	15
3.	Non-recovery of lease rent	16
4.	Non-renewal of expired leases	97
	<b>Total</b>	<b>162</b>

A few observations are discussed in the following paragraphs:

#### 3.1 Non-execution/registration of lease deed

According to Section 17(1)(d) of the Registration Act, 1908, the lease documents of immovable property either executed year to year, or for any term exceeding one year, or reserving a yearly rent are to be compulsorily registered. Thus, in respect of Government Land given on lease it is necessary to have a lease deed/agreement prepared incorporating all the terms and conditions under which the lease is granted and also get it registered with the Registering Authority.

- During test check of the lease cases, we noticed that in 11 cases, the possession of the leased plots admeasuring 84,089.57 sq m had been given between 1958 and 1983. Though 29 to 54 years had elapsed after the possession of the plots had been taken by the lessees, in none of these cases, lease deeds had been executed/registered with the registering authorities as shown in **Appendix-IX**. This resulted in non-fulfilment of the above provision. Registration of the lease deeds also attracted Stamp Duty and Registration Fee, hence, non-registration resulted in non-realisation of Stamp Duty and Registration Fee as well.

After this being pointed out, the Department stated (September 2012) that necessary action would be taken to execute and register the deeds on priority.

- In paragraph 3.10 of the Comptroller and Auditor General's Audit Report (Revenue Receipts) for the year ending 31 March 1998, we had pointed out 57 lease cases in Mumbai City wherein registration of the lease deeds had not been done with the registering authorities. In this regard, the Collector informed (November 2012) that 56 of these lease deeds are yet to be executed and registered and also stated that this work is being taken up on a priority basis. This indicated that the

Department is not monitoring the execution and registration of the leases. Thus, despite a lapse of 15 years, since the matter was pointed out by audit, the leases have not been executed and registered.

### 3.2 Incorrect application of Annual Schedule of Rates

In Mumbai City, since May 2006, the valuation of land is being done by adopting the Annual Schedule of Rates (ASR) prescribed for the year in which the land was allotted on lease or permission for redevelopment was accorded. The ASR provides for the rate of base value of open land with one FSI only and in case if the FSI is more than one or less than one then the rate has to be increased or decreased accordingly.

As per Regulation No. 32 of the Development Control Regulations, 1991 for Mumbai City, the maximum permissible FSI of the land used for residential and residential-cum-shop purposes in the island city of Mumbai is 1.33. However, it was noticed that in the following instances, FSI of one was applied instead of 1.33, which resulted in short recovery of various charges.

- **Redevelopment charge:** Redevelopment charge is a charge levied by the Government for permitting redevelopment on leased Government lands. The concept of redevelopment charge is not present in the MLR Code. However, redevelopment charge is being levied at 10 *per cent* of the market value of the land. During test check of the lease cases in Mumbai City, we noticed that in five cases, while computing the redevelopment charges recoverable, the Department had valued the land at the rate of one FSI instead of proportionately increasing the rates, though 1.33 FSI was admissible. The potential revenue forgone was ₹ 5.75 crore as shown in **Appendix-X**.
- **Transfer charge:** In another case of leased land the lessee M/s Simplex Reality applied for change of use of land from industrial to residential purpose. As per the GR of May 2009 issued in the case, transfer charges among other charges was leviable @ three *per cent* of the market value of the land, though the concept of transfer charges is not present in the MLR Code. In this case, the transfer charges were calculated taking FSI as one instead of 1.33. This resulted in short realisation of ₹ 13.81 lakh<sup>1</sup>.

The Department while accepting the audit observation stated that the MLR code needed modification so as to make the concept of FSI clear.

### 3.3 Breach of lease agreements

#### 3.3.1 Unauthorised auction of lease land belonging to Collectorate to M/s Jainam Construction by MCGM

Land admeasuring 3,811.49 sq m at Mazgaon, Mumbai, was given on lease for a period of 99 years with effect from 1 September 1903 under two separate

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<sup>1</sup> Recovered ₹ 41.84 lakh, as against, ₹ 55.65 lakh.



lease orders of February 1910 and September 1919 to a Trust held by an individual. The lease expired on 31 August 2002. This allotment on lease was made by the Collector as this was land belonging to the Collectorate.

Test check of the records revealed that the lessee had made a number of breaches before the expiry of lease. A few are mentioned below:

- As per the lease agreement the lessee was required to pay the annual lease rent and in case of non-payment of the lease rent, the lessee could be evicted from the land under section 53 of the MLR code, 1966. We noticed that the lessee had not paid lease rent since 1991. The Collectorate cancelled the lease in 1997 i.e. after a lapse of six years from which the lessee had stopped paying the lease rent. However, in the meantime the following development occurred:
- The lessee had to pay dues (such as property tax) to MCGM. MCGM found that ₹ 3 lakh due to it had not been paid by the lessee and therefore, in September 1996 it auctioned this property to M/s Jainam Construction (a partnership firm) who bought the property for ₹ 11.31 lakh. There was nothing on record to indicate that the land was auctioned with the knowledge and approval of Collectorate/Government.
- The firm (M/s Jainam Construction) redeveloped the property and constructed flats in 2005 and requested for execution of sale agreement to the Collector. However, the request was not acceded to by the Government on the grounds that the process of redevelopment of the property was without the permission of the Government. Thereafter, no action was taken and the land continued to be in the unauthorised occupation of the firm despite lapse of seven years from when it came to notice.
- Thus, Government land was unauthorisedly auctioned by MCGM and a third party interest created.

### **3.3.2 Lease of land to M/s Eastern Chemical Co. Ltd.**

Two plots of land at C.S No. 85 (measuring 17,769.43 Sq. m.) and C.S No. 93 (measuring 14,418.88 Sq. m) of Saltpan Division, Wadala, were leased to Eastern Chemical Company Ltd for a period of 99 years in 1913. As per the Property Card M/s J.K Chemical is the present lessee in respect of the above property. As per the condition of the original leases, the above lands were to be used for erecting a chemical factory for the manufacture of certain permitted chemicals.

- a) We found that the gradual relaxations allowed to the lessee in a phased manner enabled commercial exploitation of the property.

Relaxation No.	Government order	Relaxation provided
1	R&FD Memorandum dt 23 July 1974 also resolution dt 16 April 1980	The first relaxation permitted change of use from chemical factory to purely residential purpose subject to the condition that the land shall be used for providing residential flats to employees of the firm and that the land shall not be used for commercial purposes.
2	R&FD Resolution dt 18 August 1984	The lessee constructed residential flats and shops and sought relaxation for permitting him to sell the constructed residential flats and shops in the open market. This was allowed subject to the condition that the construction should be completed within a period of three years (17 August 1987) and should be sold to the middle income group with the family income of members not exceeding ₹ 2,999 per month. Lease rent should be recovered from the date of signing of the agreement or from the date of occupation certificate (OC) whichever was earlier.
3	R&FD letter dt 06 November 1984 to the company	The ceiling on income limit of ₹ 2,999 mentioned in the above resolution was deleted on request from the lessee. Thus the lessee could sell in the open market without any restriction by forming a co-operative housing society (CHS). Further, the lease rent was allowed to be recovered from CHS from the date of issue of OC.
4	R&FD letter dt 5 October 1988 to the Developer (M/s Kalpak Development Corporation)	Time for completion of the project was extended upto 17 August 1989 from 17 August 1987, however, lessee had to pay the enhanced lease rent fixed at 8 <i>per cent</i> of 50 <i>per cent</i> of market value with effect from 18 August 1987 i.e. original stipulated date of completion.
5	Order of Revenue Minister dt. 4 February 1993 on petition under section 257 of MLR Code	Extension in time limit for completion of project provided up to 17 August 1994. Lease rent recovery at enhanced rate was to be made from the date of issue of OC.

Thus, freedom was given to the lessee to exploit the Government land for commercial gains.

#### **b) Non-realisation of enhanced lease rent**

As per the GR No. 18 issued in August 1984, read with R&F letter dated 5 October 1988, (mentioned at Sl. No. 2 and 4 of the above table). The above Co-operative Housing Society CHS in whose favour fresh lease was created was required to pay lease rent at eight *per cent* of 50 *per cent* of market value of the land from 18 August 1987.

The CHS did not execute the revised lease agreement and continued to pay the lease rent at old rates of ₹ 691.13 per annum. The lease rent payable by the CHS as per the above mentioned GR worked out to ₹ 7.36 lakh per annum. Most of the buildings had received occupation certificate between 1987 and 1996, however, full details were not available in the lease records due to which the exact amount of short recovery could not be ascertained.

In reply, the Collector stated (September 2012) that necessary action to recover lease rent from the lessee was being taken and added that the land in question was allowed to be commercially exploited by the Government without recovering any additional premium on the orders of the Revenue Minister (February 2003).

Thus, the land which was originally intended to be used for a chemical factory was permitted to be used for residential purpose for low income groups. Subsequently, even this condition was waived off and it was allowed to be sold in the open market. In addition to this, lease rent payable was also relaxed thereby leading to a loss of revenue to the Government.

### **3.3.3 Lease of land to Maharashtra Rajya Sahakari Sakhar Karkhana Sangh Ltd.**

In August 1973, Government approved lease of land admeasuring 2,440.57 sq m (CS No. 1971) of Fort division, Mumbai to Maharashtra Rajya Sahakari Sakhar Karkhana Sangh Ltd. (MRSSKSL) for a period of 99 years to build commercial offices for “member sugar factories” which also encompassed a receiving station of the Bombay Electric Supply and Transport (BEST), at an annual lease rent of ₹ 5.71 lakh. This lease rent was fixed at a concessional rate of ₹ 3,600 per sq m instead of the market value of ₹ 4,750 per sq m. MRSSKSL was given possession of the land in March 1975 without executing any lease agreement. Instead a sanction order (May 1977), was issued which stipulated that the lease deed should be executed within three months and the construction of the building should be completed within five years from the date of possession. However, no lease deed has been executed and registered till date. The plot was also rent free for a period of first two years.

Our examination of records revealed that irregular relaxations and concessions granted to the lessee from time to time resulted in undue favour to the lessee as mentioned below:

- The lessee did not start the construction work, instead asked R&FD (1 February 1978) for outright sale/subleasing of the plot on the plea that the “member sugar factories” showed reluctance to own commercial office space in the proposed building to be constructed. Since this violated the very purpose for which land was leased, the land could have been resumed at this stage by the Collectorate. However, no action was taken by the Collector.
- R&FD on 23 February 1978, relaxed the rent free condition extending the rent free period from two to five years (i.e. from 1975 to 1980). There was nothing on record to indicate that the lessee had asked for it.
- On 20 February 1978, the lessee handed over the possession of the plot to a developer<sup>2</sup> and entered into an agreement with him in July 1978 for construction of a multi-storeyed building. The agreement stipulated that the developer would pay the ground rent for the plot to the Government from the date of possession. As per information obtained

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<sup>2</sup> M/s Aesthetic Builders Pvt. Ltd.

on 9 November 2012 from Superintendent, Mumbai City Survey and Land Records, the total built up area was 1.27 lakh sq ft, out of which, 1/5<sup>th</sup> area was occupied by BEST, 1/5<sup>th</sup> by the original lessee and the remaining 3/5<sup>th</sup> was occupied by 20 private parties (not member sugar factories) and the developer.

- R&FD was responsible for grant of permission for construction and change in use. However, in this case we noticed that the above deviations were approved (March and July 1978) by the General Administrative Department, Government of Maharashtra, though initially it had also not approved the proposal for grant of land on lease in February 1978.

Thus, MRSSKSL did not utilise the land for the purpose for which it was allotted but misused the lease rights. The land could have been resumed to the Government in terms of Section 53 of the MLR Code, had timely action been taken.

### 3.3.4 Lease of land to MTDC

The Government in R&FD vide Resolution of 21 October 1989 approved the leasing of property admeasuring 711 sq m (C.S.No.1761 and 1762, Plot No.100A and 100B, BBR-I, Fort Division) to Maharashtra Tourism Development Corporation (MTDC) on an annual lease rent of ₹ 11.38 lakh. MTDC took possession of the plot in September 1990. However, the lease agreement had not been executed and registered till date.

We noticed that

- MTDC subleased a portion of the above land on 21 October 1989 to Indian Oil Corporation (IOC) for a consideration of ₹ 1.42 crore without obtaining prior permission from the Government. Though the Government cancelled the allotment to MTDC and ordered resumption in October 1999, we found that the land was not resumed and a portion of it was still in the possession of IOC.
- Government also ordered for recovery of ₹ 1.42 crore which was received by MTDC from IOC. This amount has not been recovered so far. Besides, lease rent of ₹ 1.93 crore and interest of ₹ 2.70 crore payable by the lessee as of August 2010 has also not been recovered.

After the case was pointed out in Audit, the Department stated (September 2012) that in response to the notices issued to MTDC for payment of dues and resumption of land, MTDC had approached the Principal Secretary, Home Department in December 2001. However, resumption of land and action for recovery of dues are pending though 13 years had elapsed since the issue of Government orders in the matter. Further, IOC is still in possession of the plot.

### 3.3.5 Grant of building on sub lease by Ayurved Prachar Sanstha

As per sanction order dated 29 October 1971, Government allotted land admeasuring 1,974.56 sq m of Bhuleshwar, Mumbai to Ayurved Prachar Sanstha on lease basis for period of 99 years at an annual concessional lease

rent of ₹ 19,252<sup>3</sup> with effect from 1 April 1970. However, the lease agreement was not executed and registered by the lessee till now.

The terms and conditions of the sanction order stipulated that the land was to be used for running an Ayurvedic hospital/college and ancillary purposes including residence of bonafide members of the staff of the hospital and college and not for any other purpose.

- We found that the Sanstha constructed a building with 12 floors in 1975 having 7,580.12 sq m of built-up area. Out of which, five floors were given on lease to a Central Government Department (Income Tax) on annual rent of ₹ 4.25 lakh. Of this, as per R&FD memorandum of October 1997, 50 *per cent* of the rent was to be remitted to the Government as lease rent. However, we noticed that the 50 *per cent* of the lease rent paid by the ITD was not demanded from the Sanstha. The minimum amount recoverable from the Sanstha amounted to ₹ 55.25 lakh<sup>4</sup> for the period from July 1986 to June 2012.
- The Sanstha approached the Chief Secretary for getting back the sub-leased floors in July 1994 for expanding medical facilities. However, the floors have not been given back to the Sanstha till date. Thus, the sub-leased portion of land continued to be used contrary to the purpose for which the land was leased.
- there was nothing on record to confirm whether the bonafide staff of the hospital/college was accommodated in the building itself.

After non-recovery of rent was pointed out by Audit, the Collector stated that the Sanstha had represented for waiver of the rent received from the ITD, it further stated that the Sanstha was involved in welfare activities and therefore, concessional lease rent had been allowed. However, the reply was silent about the non-execution of the lease deed with the lessee, return of the sub-leased floors to the lessee and on whether accommodation of the building was being provided only to the bonafide staff of hospital/college by the Sanstha.

### 3.4 Failure to take action against encroachment

The MLR Code, 1966, prescribes that in case encroachment is detected by the authority, the encroacher shall be evicted forthwith and assessed for non-agricultural assessment/land revenue at the prescribed rate and fines. In case the encroachment is regularised on occupancy rights, the encroacher would have to pay penal occupancy price and penal land revenue at the prescribed rates.

#### 3.4.1 Lease of foreshore land

The Government in October 1951 leased land admeasuring 3,525 sq. yard and 168 sq. yard at Colaba, Mumbai for 21 years from December 1949 to Shri

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<sup>3</sup> calculated at the rate of 6.5 *per cent* per annum on value of the land @ ₹ 150 per sq m.

<sup>4</sup> The amount to be recovered may be worked out by the Department after obtaining the details of the actual rent received by the Sanstha from ITD during the periods from July 1986 to June 2012. (50 *per cent* of ₹ 4.25 lakh per annum X 26 years).

Shivchandra Poddar for residential purpose. As per Clause 2(f) of the lease deed, if the lessee sold, assigned or parted with the leased land, he was required to intimate the Collector within 21 days of such action. We found that lease periods were extended from time to time for 21 years up to 1991. However, in 1981, the lessee sold the lease rights to Chunnilal Co-operative Housing Society (CCHS) without intimating/approval of the Collector.

During test check of lease records of the CCHS, we noticed that

- In 1982 CCHS had constructed a 16 storey building after obtaining the approval of the building plan from MCGM in 1981. The building plan included an encroached foreshore land of 622.08 sq m which was not leased/allotted to the original lessee or to CCHS. By including this foreshore land in the plan, CCHS obtained a higher FSI for its building and constructed the building accordingly. The approval of the building plan on encroached land by MCGM was irregular as the encroached land did not belong to the lessee.
- To get the above encroached land regularised, CCHS approached (September 1984) the Revenue Minister for allotment of the foreshore land on lease for utilisation as a playground, garden and other recreational purpose for the society. It was stated that the land was in the possession of the original lessee and was now in possession of CCHS.
- The period of lease expired in 1991, however, no action had been taken for renewal/eviction.

After we pointed out the case, the Collector, stated (September 2012) that the matter was reported to the Government between 1989 and 1994 after which a meeting was convened with the Chief Secretary in February 1995. However, no final decision has been taken till date.

### **3.4.2 Land leased to Mumbai Gymkhana**

As per the lease agreement of November 1908, Government leased 37, 044 sq. yards of Azad Maidan land, Mumbai to Mumbai Gymkhana for a period of 99 years.

During the audit of Deputy Director, Sport and Youth Services, Mumbai, we found that:

- Superintendent, City Survey and Land Records (SCSLR) had carried out measurement of the land leased to Mumbai Gymkhana in November 2004. He had found that the Gymkhana had encroached upon 4,268.81 sq m of land adjoining the land leased to it. Though eight years had elapsed after the encroachment was detected by SCSLR, no action for eviction/regularisation as prescribed in the MLR Code has been initiated by the Department.
- The lease expired in December 2006, extension of lease period was not granted and the land continued to be in the unauthorised occupation of Gymkhana.

After this was pointed out, the lessee filed (April 2013) a writ petition in the Bombay High Court challenging the contention of the Department that there was encroachment of the land and had prayed for ordering/directing the Department to initiate a joint survey strictly in accordance with the provisions of the MLR Code. Further progress in this case has not been intimated.

### 3.5 Non-recovery of lease rent

#### 3.5.1 Lease of land to Sportsfield Co-operative Housing Society

Government in R&FD decided in January 1983 to allot plot No. 9A under CS No.734 at Worli to Sportsfield Co-operative Housing Society (SCHS), under certain terms and conditions. The Society took possession of the plot (1,674 sq m) on 9 August 1984. Government order was passed in July 1997, granting the land on lease to the SCHS for 99 years as per the Government policy for allotment of land dated 12 May 1983. The yearly lease rent was fixed at eight *per cent* of 50 *per cent* of market value as of 1 February 1976 (i.e. ₹ 900 per sq m). Interest at the rate of eight *per cent* per annum was to be recovered on the unpaid amount.

We noticed a number of irregularities while examining the lease record of the society in the Collectorate office, as follows:

- As per the Collectorate's official record, area of the leased plot was 1,674 sq m. However, in 1984 as per joint survey conducted by Public Works Department, lessee and the Collectorate, the area of the leased plot was found to be 1,716.85 sq m. The excess area of 42.85 sq m was neither resumed nor included in the lease order. The lease rent of ₹ 0.86 lakh had also not been recovered.
- In April 1985, the Department amalgamated an adjacent plot admeasuring 87.84 sq m for generation of additional FSI of the plot. A flat of approximately 2,000 sq. ft. was built and leased out. However, the lease rent of ₹ 1.77 lakh for the additional plot area provided had not been demanded.
- In April 1989, the lease rights of a flat were sold by one member to another member of the SCHS with the approval of the Government subject to payment of premium ₹ 3.02 lakh to the Government. The amount has not been recovered so far though 23 years have elapsed.
- As per Government Resolution of June 1988 the lease rent was payable at commercial rate for commencement of commercial activities in a housing society. The commercial lease rent was 15 *per cent* of the market value of the leased area. It was noticed that an area of 1,959 sq ft was sub-leased to the Punjab National Bank. The lease rent of ₹ 55.39 lakh had not been recovered from SCHS.

After we pointed out the case, Collector, Mumbai City accepted (September 2012) the facts and stated that necessary action to recover the dues as arrears of land revenue would be carried out.

### **3.5.2 Lease of land to Foreshore Co-operative Housing Society**

GR dated 14 June 1988 stipulates that 15 *per cent* of the demised premises could be utilised for commercial purposes, in which case additional lease rent at the rate prescribed in the said GR is payable by the lessee to the Government.

We noticed in October 1989 that Foreshore Co-operative Housing Society had leased 596.82 sq m of the constructed premises to Bank of Baroda for monthly lease rent of ₹ 1.60 lakh for 10 years with a clause for further renewal. In June 1995 and December 2003, the Collector sought order from the Government for recovery of additional lease rent of ₹ 3.36 crore @ ₹ 3.56 lakh per annum from October 1989 to December 2003.

The Collector stated (September 2012) that order from the Government was awaited. The reply of the Collector was not correct as demand for additional lease rent should have been raised as provided in the Government Resolution. There was no need to seek any order from the Government in this regard.



## CHAPTER IV

### COLLECTOR, MUMBAI SUBURBAN DISTRICT

This chapter contains the results of audit of the lands given on lease in Mumbai Suburban District. There are 295 lease cases out of which 74 cases were selected for detailed scrutiny. Results of analysis of the selected cases are mentioned below:

Sr. No.	Category	No. of observations
1	Non-fulfilment of conditions for grant of lease	1
2	Breach of lease conditions due to change in purpose, transfer of leasehold rights	46
3	Non-recovery of lease rent	3
4	Details of recovery of lease rent not available	37
5	Non-renewal of expired leases	37
	<b>Total</b>	<b>124</b>

A few observations are discussed in the following paragraphs:

#### 4.1 Grant of land on lease despite non-fulfilment of mandatory conditions

As per GR of February 1983, Government land can be allotted for educational purposes at concessional rate subject to production of project proposal, information regarding financial status of the lessee, etc..

The State Government in September 1994 allotted 2,880 sq m of land for secondary school building on occupancy basis and 5,236 sq m of land for play ground attached to the school on lease basis to Samajonnati Shikshan Sanstha, Borivali, Mumbai. The period of lease was 15 years from February 1995.

We noticed that the Collector while forwarding the application of the lessee had informed the Government (August 1991) that the applicant institution had not submitted the mandatory project documents of the proposed school as well as the financial status of the institution. However, the Government allotted the land to the said institution. The Sanstha did not construct the school but constructed only three classrooms and an office. The lease period of the playground had expired in 2010 which had neither been renewed nor resumed till date. The possibility of the land having been used for some other purpose cannot be ruled out.

After we pointed out the case (July 2012), the Department accepted that only three classrooms and an office were constructed, however, the reply was silent regarding resumption of land for breach of condition.

#### 4.2 Non-resumption of land on lease despite repeated violations/breaches

**4.2.1** The State Government in March 1977 leased out land admeasuring 91,057.6 sq m at Mankhurd to M/s Bombay Soap Factory, for industrial purpose i.e. for setting up a synthetic detergent plant for a lease period of 99

years at an annual rent of ₹ 1,91,909. The lessee was to utilise the land for the purpose for which it was granted within a period of three years from the date of taking over possession of land.

We noticed that the lessee violated the terms and conditions of lease from time to time. However, the land has not been resumed till date. The facts of the case are as follows:-

- The lessee has not utilised the land till date. The Collector issued a show cause notice to lessee in December 2004 and issued an order for resumption of land in January 2005 after a lapse of 28 years.
- The lessee filed an appeal before the Additional Commissioner, Konkan Division who quashed the resumption order and ordered (August 2008) a fresh enquiry. On fresh enquiry the Collector divided (February 2009) the land amongst the partners.
- In April 2010 the lessees (partners) entered into an agreement for the development of the said land with D.B. HI-Sky Construction Private Limited without the permission of the Government for which consideration of ₹ 53.56 crore was received by the lessees (partners).
- On 1 July 2011 and 26 July 2011 the Collector issued show cause notices for breach. As the lessees did not present themselves for the hearing in August 2011, the Collector issued notice to the lessees intimating that in case the lessees would not attend, action would be taken unilaterally in the case. The land has not been resumed till date.
- Out of ₹ 67.17 lakh lease rent payable from 1977 to 2012, lease rent of ₹ 19.81 lakh was outstanding.

Thus, through repeated violations the lessees gained financially at the cost of the state exchequer due to inaction on the part of the Government to resume the land in time.

**4.2.2** The State Government in November 1966 allotted 952.75 sq m of land at Vile Parle, Taluka Andheri, Mumbai, for industrial purpose on lease basis to M/s Mohamad Ibrahim and Sons for a period of 99 years. As per Collector's orders in July 2003, the rent was fixed at ₹ 71,316.60 per annum. As per scrutiny sheet of the Talathi, the lessee had paid rent till date.

A perusal of lease records showed that

- The land was reserved for service industry (commercial purposes) but was incorrectly allotted (1966) for industrial purpose. The mistake came to the notice of the Department in April 1972 and land was resumed by the Government (April 1972).
- It was again allotted to the same lessee in August 1983 for service industry purpose. It was stated that the land continued to be in his possession since 1972. The rate of annual lease rent was fixed on the basis of market value of the land at the rate of ₹ 1,150 per sq m against which he preferred an appeal before the High Court, which fixed in 1993 the annual lease rent as ₹ 71,316.60 with effect from 1983.
- The lessee did not start any service industry and sought permission for redevelopment of the land from the Government in 2003 which was

granted subject to the condition that service industry would be put up by July 2005 i.e. within a period of two years.

- Thereafter, lessee regularly sought extension in July 2007, which were granted by the Government, the latest being up to January 2014.

The facts indicate that the lessee was allowed repeated extensions for a period of 45 years though there were enough grounds to resume the land.

**4.2.3** The State Government in May 1985 sanctioned 15,461.23 sq m of land at Kanjur, Mumbai, for industrial purpose on lease basis to M/s Jolly Anil India Ltd. for a period of 30 years with an annual lease rent of ₹ 16,104. A lease agreement was executed in October 1999.

We noticed that the Collector issued notice to the lessee in February 2011 for breach of terms and conditions of the lease agreement based on the inspection report of Tahsildar, Kurla wherein it was noticed that only a shed had been constructed on the land and the remaining land was lying idle for a period of more than 27 years. Further action taken in the matter was not available on record.

After we pointed out the case, the Collector, stated (October 2012) that as the leased land fell under the Coastal Regulatory Zone (CRZ), the lessee could not utilise the land. However, action taken to resume the land was not intimated.

**4.2.4** The State Government in September 1977 and March 1979 allotted 4,839.503 sq m land for the construction of secondary school building and 1,146.60 sq m land for play ground at Chembur, Mumbai, on lease basis to Janata Seva Mandal (Trust). The lease periods for secondary school building and play ground were for a period of 30 years and 15 years and their annual lease rents were ₹ 10,091.44 and ₹ 1,028.10, respectively. It was stipulated in the lease conditions that the land or interest therein shall not be transferred except with the prior sanction of the Government and the land would be used within a period of two years from the date of possession.

The Trust violated the terms and conditions of the lease deed as detailed below:

- **Construction of school building** : The Trust was required to construct the school building within a period of two years i.e. by 1980. However, the school building had not been constructed till 1989. In view of this, the Collector invited applications from other societies which may qualify to take this land on lease through an advertisement in the news paper and in response received 24 applications and forwarded the proposal/application for reallotment of land to the Government in December 1989. The Government rejected the applications/proposal and extended the period of construction by two more years in favour of the lessee i.e. upto 31 July 1991. The reason for not considering the proposal of the Collector was not on record.
- **Surrender of rights** : After a lapse of seven years, the lessee in 1988 informed the collectorate that due to financial constraints he could not construct the building and sought approval for amalgamation of his trust with an another society. The Collector did not accept the amalgamation on the grounds that the two different entities were governed by the different Acts (i.e. Bombay Public Trust Act, 1950

and Societies Registration Act, 1860), and had different registration numbers. Despite this, the lessee allowed the society to construct and run Primary School, High School and Junior College on the land leased to him. The terms and the conditions under which the amalgamation was done, date of construction of the buildings by the Society were not found on record.

- **Incorrect regularisation by levy of unearned income** : There is no provision in the MLR code for regularisation of the irregularity committed by the lessee in transfer of land to the society. However, the Collector levied in August 2011 ₹ 7.80 crore as unearned income instead of resuming the land. Aggrieved by this, the lessee filed an appeal (February 2012) before the Revenue Minister who granted interim stay order in March 2012. The matter is still pending (November 2012).

The above facts reveal that despite gross violation of the lease conditions, the lessee was allowed to hold the land.

In the exit conference the Government accepted the facts.

**4.2.5** Government (July 1978) granted land admeasuring 16,722.54 sq m at Bandra, Taluka Andheri, Mumbai to Guru Nanak Quincentenary Memorial Hospital Trust for a lease period of 99 years on an annual rent of ₹ one. The land was to be used for construction of hospital cum medical college.

We noticed from the records that no medical college was constructed on the plot. Instead only a hospital-cum-research centre was functioning on it. For breach, notices were issued to the Trust in November 2006 and December 2006 by the Collectorate. However, no further action for resumption of the land allotted for medical college was initiated despite a lapse of 34 years.

**4.2.6** The State Government (November 1966) leased land admeasuring 984.76 sq m (1,177.77 sq yards) to M/s Gannon Dunkerly and Co. Ltd. at Santacruz, Mumbai, for industrial purpose for a period of 99 years. The lessee failed to develop and use the land and the Government resumed the land in February 1990.

However, the Government in May 1992, again leased out the resumed land to M/s Gannon Dunkerly and Co Ltd. for a lease period of 30 years for service industry purpose. An agreement was executed with the lessee in July 1993. The lease condition stipulated that lessee could not transfer the land/commercial building or interest therein without prior approval of the Government.

The lease records revealed that:

- in 1994, the lessee assigned the development rights of the land without prior permission of the Government to M/s Riaz Trading Ltd.
- The Collector permitted the lessee to change the use of land to commercial purpose in June 2002 with directions to utilise the land within a period of two years from the date of taking possession though by this time the land had already been transferred to M/s Riaz Trading Ltd.

- M/s Riaz Trading Ltd. merged with Reliance Properties Management (RPM) Services Pvt. Ltd. and in turn had transferred the development right to RPM without prior permission of the Government in December 2009.
- There was nothing on record to indicate that the property had so far been developed.
- Notwithstanding the fact of non-applicability of the GR of November 1957 to leased lands, the Collector regularised (November 2009) the breach by levying unearned income of ₹ 91.42 lakh.

Even the unearned income was not levied correctly. The Department should have determined the unearned income based on the rate of land (₹ 19,600) for the year 2002 i.e. the year in which the Collector permitted the change of use of land and not on the market rate as applicable in 1994. This resulted in the short levy of unearned income of ₹ 53.34 lakh.

Thus, it would be seen from the above that the rights of the land were transferred from one party to another party without any development.

As there was breach, the land was required to be resumed under Section 53 of the MLR Code.

**4.2.7** The Government in January 1983 allotted 810 sq m of land on lease (Survey No. 14) for construction of gymnasium and conducting sports and cultural activities on lease basis to Shivrushti Sport and Cultural Centre (SSCC) at Chembur, Mumbai. The lease was for a period of 30 years with a condition that the land be used within a period of two years from the date of grant.

We noticed that

- The lessee did not construct the sports complex. A proposal for resumption of land and also recovery of arrears of lease rent, interest and outstanding rent for commercial use aggregating ₹ 49.57 lakh was submitted to the Government in May 2008.
- Till date no decision has been taken by the Government. In the mean time, the lessee entered into a development agreement with a developer in May 2010 for a consideration of ₹ 1.87 crore without the consent of the Collector.
- This was communicated to the Collector in March 2011. The Collector, instead of taking action under Section 53 to resume the land, directed the lessee in February 2012 to pay outstanding rent and interest of ₹ 59.78 lakh to the Government within a period of 15 days.

The above facts indicate that for the breach, the land was required to be resumed under Section 53 of the MLR Code which the Department has failed to do.

**4.2.8** The Government in May 2002 allotted 5,572 sq m of land for construction of sports complex and play ground on lease basis to Dadasaheb Gaikwad Sanskrutik Kendra at Ambivali, Mumbai. The lease was for 15 years. The lessee was to construct a sports complex within a period of three years.

We noticed that the lessee had not completed construction of the sports complex. A notice for breach of condition was issued by the Collector in November 2011.

The Collector stated (October 2012) that action against lessee would be intimated to audit.

**4.2.9** The Government in November 1941 leased out land admeasuring 1,882.89 sq m at Juhu, Mumbai to Maharaja of Jodhpur, for the development of a garden for a lease period of 50 years. This leased land was a narrow strip of land between the sea and the private land belonging to the Maharaja. The lease expired in 1992.

We noticed that

- the lessee had sold the leased land along with the adjacent owned land to M/s Juhu Beach Resort Pvt. Ltd. in September 1984.
- Instead of resuming the land under Section 53 of the MLR Code, the Collector, in June 2008, regularised the unauthorised transaction by charging unearned income of ₹ 9.53 lakh.

**4.2.10** The Government (October 1967) leased land admeasuring 505.85 sq m (605 sq. yards), to Shri Madhusudan Shastri (Upadhyaya) at Bandra for a *mandir* and for residential purpose at an annual lease rent of ₹ 1,210 for a lease period of 30 years. As per the request of the lessee, the Government (November 1970) allowed him to surrender 338.63 sq m (405 sq. yards) of the land and allowed him to retain the remaining area of 167.22 sq m (200 sq. yards).

We noticed that

- As the lessee had surrendered 338.63 sq m in November 1970, the land in possession should have been only 167.22 sq m. But the property card of the incumbent showed a land admeasuring 563.4 sq m (673.8 sq. yards) in possession as of March 2008.
- The *Tahsildar*, Andheri reported to the Collector (August 2009) that the legal heirs of the lessee in March 2009 had sold the land to M/s Dominant Developers Pvt. Ltd. for a consideration of ₹ 2.01 crore which included the surrendered area.
- The Department issued a demand notice for ₹ 1.51 crore as unearned income which has not been recovered till date. Since the land had been surrendered the entire amount received by the lessee should have been demanded.

The Collector, in July 2011, issued an order to the *Tahsildar*, Andheri to resume the land and take punitive action against the lessee as well as purchaser and also instructed that the name of Government be entered in the property card. However, no action has been taken so far (March 2013).

**4.2.11** 48 plots situated at Mount Mary, Band Stand, Bandra, Mumbai were leased to private parties/co-operative societies from 1901 onwards for 50 years by the Council of State. The term was extended for a period of 30 years from 1 January 1951 to 31 December 1980 and further renewed for a period of 10 years from 1 January 1981 to 31 December 1990. There was nothing on record to indicate whether the lease was renewed beyond 1990.

As per the general terms and conditions of lease agreement, the lessees were prohibited from transferring or assigning the allotted plot or part thereof without the consent in writing of Collector and, the lessee could not at any time construct a building covering or projecting more than the area prescribed for the said plot of land.

- In November 2006, the Collector, MSD, Mumbai informed the Principal Secretary (Revenue) that in 22 cases (**Appendix XI**) the lessees transferred the allotted plot without the consent of the Collector and covered by way of construction, more area than was allowed as per the agreement.
- In nine cases (**Appendix XI**) the lessee covered/projected more than an area prescribed for the said plot of land.

After a lapse of 16 months (April 2008) the Collector sought guidance from the Government regarding action to be taken in the cases.

The Government, after a lapse of three years, in August 2011 directed the Collector to submit a case-wise proposal giving the nature of breach and penal action proposed for regularisation.

**4.2.12** In May 1985 R&FD sanctioned 39,690.85 sq m of land at Kanjur, Mumbai, to M/s Jolly Boards Ltd. for industrial purpose on lease basis for a period of 30 years at an annual lease rent of ₹ 3,300. As per the Development Plan of MCGM, the land was reserved for a district commercial centre.

The Government granted approval (June 2010) to the lessee for change of use of land from industrial to partially commercial, industrial and residential purpose with a condition that the land was to be developed without third party interest and the draft agreement between lessee and developers had to be submitted for approval of the Collector to ensure the interest of the Government.

Detailed scrutiny of records revealed that the lessee had entered into a development agreement in December 2005 itself (i.e. five years before Government granted approval for change of use) without prior permission of the Collector for construction of an IT park and for carrying out residential and commercial activities wherein the lessee and the Developer agreed to share the constructed area in proportion of 47.5 and 52.5 *per cent*, respectively.

As a result, a third party interest was generated and an IT Park was also constructed on 2,480 sq m of land without approval of the Collector. The Collector should have resumed the land for breach of condition.

We brought the matter to the notice of the Collector, MSD, in July 2012; reply is awaited (March 2013).

**4.2.13** An individual informed (date not available) the Collector that an area of five acre and 23 *gunthas* at Chembur, Taluka Kurla, Mumbai was granted to his forefathers on “Eksali lease” in 1949 for agricultural purpose and requested Collector, MSD, Mumbai to grant the land on lease for a period of 99 years. As per record, lease rent was paid by the lessee from 1949 to 1962. A proposal was submitted by the Collector in October 2002 and March 2009 to the Government. Meanwhile, the applicant also made an application before

the Revenue Minister in November 2008. The Revenue Minister decided (June 2009) the case in favour of the applicant and directed the Collector to lease the land for agricultural purpose with retrospective effect from February 1962 by charging lease rent and premium and renew the lease period for 30 years with effect from January 2009. A lease agreement was executed between the Government and the lessee in July 2009. Condition no. (vi) of the registered lease agreement envisaged that the lessee would not develop the said land without the prior permission of the Collector. Condition (xi) stipulated resumption of the land in case of breach of any of the conditions of the said agreement. The land measuring 18,722.9 sq m was handed over to the lessee in February 2010.

We noticed that immediately after getting possession of the land in February 2010, the lessee entered into a development agreement with M/s Supreme Constructions and Developers in June 2010 without the permission of the Collector. This reflects the intention of the lessee to make a financial gain from the land and not utilise it for agricultural purposes.

A notice for breach of lease condition was issued by the Collector in February 2011. The Collector referred (March 2011) the matter to the Government for their decision. Despite lapse of one year no action had been taken.

**4.2.14** The Government (May 1970) passed a resolution granting 80 acres of land which was already in their possession since 1957 to M/s Jolly Brothers Pvt. Ltd. on lease basis for a period of 99 years from 1970 for industrial purpose. As the lessee had sub-leased 14 acres of land out of 80 acres to four sister concerns, the Government issued a fresh resolution in February 1984 regularising the area of 66 acres in favour of the lessee M/s Jolly Brothers Pvt. Ltd. for 99 years. It was also decided to execute separate lease agreements with the four sub-lessees for the remaining area of 14 acres for a period of 30 years.

We noticed that the Government (June 2010), based on the request made by the lessee, accorded sanction for change of use, from industrial to other purpose<sup>1</sup> by charging five *per cent* premium i.e. ₹ 32.74 crore in respect of 66 acres of land in favour of M/s Jolly Brothers Pvt. Ltd, even though no such provision exists in the MLR Code. In the same order, permission to raise loan for development of land as well as to sell, transfer the constructed residential / commercial property was also given.

It is pertinent to mention here that under similar circumstances in the case of M/s Vidhyavihar Containers (M/s Nathani Steel) the Government (2005) had ordered the lessee to pay fifty *per cent* provisional unearned income. The same treatment in the instant case, would have fetched a revenue of ₹ 199.14 crore to the Government.

In the exit conference it was stated by the Department that the land was resumed by the Government. However, detailed reply from the Department/Government has not been received (March 2013).

**4.2.15** Government in April 1974 allotted 10,206 sq m of land at Kurla-Kirol, Mumbai, for industrial purpose on lease basis to M/s Sahani Kirkwood Pvt.

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<sup>1</sup> commercial, industrial and residential.



Ltd. for 90 years and fixed an annual lease rent of ₹ 15,934 in September 1974.

We noticed that

- The lessee had not utilised the land upto 2006 i.e., even after a lapse of 32 years for the purpose for which it was allotted.
- The lessee in 2006 cited encroachment in the approach road to the plot as the reason for non-utilisation. However, it was noticed from the records that encroachment took place in the year 1984-85.
- Notwithstanding the non-applicability of the GR of November 1957 to leased lands, it was noticed in 2006, that the Collector granted permission for change of use of land from industrial to residential and commercial, by levying unearned income of ₹ 2.99 crore on land area of 8,443.79 sq m, the area as stated in the property card. The Revenue Minister in a suo motu review order issued on 26 October 2007 under Section 258 of the MLR Code directed the Collector to rectify the area in lessee's possession as 10,206 sq m in the property card instead of 8,443.79 sq m. Thus, the adjoining piece of land was also granted to the same lessee. However, the Collector did not revise the unearned income accordingly. This resulted in short levy of unearned income of ₹ 61.89 lakh.

It is not clear as to how the lessee had found the very land with encroachment as fit enough for residential and commercial purpose and not for industrial use. It is also not clear as to how this was accepted by the Department and change in land use allowed instead of resumption of the land.

**4.2.16** Land admeasuring 42 acres and 15 *gunthas* (1,71,485.54 sq m) CTS No. 5 and 8 of village Malvani, Taluka Borivali, Mumbai was granted on lease to an individual in 1936 for a period of 999 years. As per sanctions of lease, half of the land was to be reclaimed within first 10 years and the remaining land in another 10 years i.e. by 1956. Among other conditions, whole or part of land was not to be leased till it was reclaimed, lessee could not assign, bequeath, alienate the land without prior sanction from the Collector, the lessee was to pay concessional lease rent fixed for 30 years and thereafter pay rent as per the prevailing rate and in case of breach of conditions the lessor could re-enter the land.

During scrutiny of the individual case file, we noticed that in October 1974, the lessee had transferred the land to M/s Baf-Hira Builder Pvt. Ltd. (BBPL) for a consideration of ₹ 2.38 lakh. The builder also started construction of buildings and applied to the Sub Divisional Officer for non-agricultural use. On 20 January 1976, the Collector requested the Municipal Commissioner for stopping the construction (obviously indicating that the go ahead for the construction work and approval was granted by the municipal authority, as a result of which work was stopped). The builder filed a writ petition before the High Court against the order of stoppage of work. However, a compromise was reached where by the letter dated 20 January 1976 was withdrawn and the court ordered that action in accordance with the MLR code was to be taken. Accordingly, a notice was served upon the builder for breach of condition on 15 April 1981 and proceedings were initiated but were not taken to logical

conclusion. Twenty years later, in September 2001 another notice was served upon the builder. In April 2002, the Collector came to know that the builder had transferred 34,990 sq m of the land in his possession to Daryanani Construction (DC) for a consideration of ₹ 44.75 lakh. The Collector served notice on BBPL for recovery of unearned income of ₹ 35.35 lakh on the consideration received by him. This order was challenged by BBPL in the Mumbai High Court who granted interim relief to the builder vide its orders of December 2002 and April 2003 and dissuaded the Department from taking any coercive steps against the petitioner. Final decision in the matter is pending.

As per the order passed by the Collector in October 2002 the following breach of conditions were committed by the original lessee as well as the builder.

- As per the *panchnama* and report of the Tahsildar only six acres out of the total land given on lease was reclaimed till 1976 and three of which was only utilised for agricultural activity, in fact the reclamation of land and agricultural activity should have started from 1956 itself.
- The land was illegally transferred by a legal heir of the lessee in October 1974 to BBPL without obtaining prior permission from the Collector.
- Though the lessee was required to pay lease rent at the prescribed rates from 1966, no lease rent is being paid till date (October 2002).
- Out of the total land given on lease, 22 acres were found to be barren and in the remaining 20 acres building were constructed, in respect of 22 acres of barren land, direction was issued to the Tahsildar, Borivali to resume the land.
- Utilisation of an agricultural land for non-agricultural purpose was contrary to the provisions of Section 63 of the Bombay Tenants and Agricultural Land Act (BTAL).
- The names of the builders, BBPL and DC were entered in the 7/12 extract but the name of DC was deleted as the transfer of land was illegal.

From the above facts it is clear that there were several instances of breach of conditions right from 1956 itself, however, except for issuing some routine notices effective action for resumption of land was not taken by the Collectorate allowing the lessee as well as builders to make use of the land as per their own will alongwith third party interest created on the property resulting in litigation. The Government remained a spectator to the irregularities committed on the leased property Thus ineffective monitoring of land given on lease resulted in interest of the Government not being safeguarded.

### **4.3 Encroachment on land**

**4.3.1** The Government (April 1952), granted land admeasuring 1,86,028 sq m at Juhu, Koliwada, Mumbai to Juhutara Koli Samaj for the purpose of drying nets, curing fish, etc. on lease basis for a period of 30 years with an annual lease rent of ₹ one. From April 1982, the Government assigned the

land to the Koli Samaj for promotion of fishing activities vide memorandum of December 1985.

We noticed that the Tahsildar, Andheri reported to the Collector in August 2011 that the above leased land was under encroachment. The date from which it was under encroachment was not available, however, it was stated by the Tahsildar that the land was under encroachment prior to December 2010. It was further stated that most of the land continued to be occupied by unauthorised garages, shops and hutments. The Collector stated that failure to erect a compound wall by the Samaj resulted in the encroachment. However, the records revealed that Samaj had lodged several complaints from time to time against the encroachers with the district and police authorities.

Thus, the land granted 60 years back for fulfilling the social objective of facilitating the fishing activities of the Koli Samaj remained largely unfulfilled due to large scale encroachments, lack of monitoring and apathy towards the complaints of the Samaj.

After this was pointed out, the Collector stated (October 2012) that a proposal to lease the land to the Koli Samaj had been forwarded to the Government.

**4.3.2** The Collector (June 1959) granted 418.06 sq m of land at Danda Khar, Taluka Andheri, Mumbai, on lease basis for a period of seven years to a lessee for being utilised as a Dhobi Ghat by the lessee and by others at an annual lease rent of ₹ 100. Details of the lease agreement were not on record.

We noticed that on instructions of the Additional Collector (July 1987), the Tahsildar, Andheri in August 1993, *i.e.* five years later, informed that the plot had been encroached upon and that slums had sprung up on the land. There was nothing on records to indicate that the encroachment had been removed.

#### **4.4.1 Non-revision of premium for utilisation of TDR**

Transferable Development Rights (TDR) may be made available to the owner of a plot of a land which is reserved for a public purpose in the development plan in the form of Floor Space Index (FSI) subject to certain conditions. Such award will entitle the owner of the land to FSI in the form of a Development Rights Certificate (DRC) which he may either use himself or transfer to any other person.

The Government (June 1969) granted land admeasuring 4,515 sq m to M/s Maharashtra Theatre Pvt. Ltd. at Bandra, Mumbai on lease basis for commercial purpose for a period of 99 years.

The Collector issued (April 2004) after approval from the R&FD, an order permitting the use of TDR by charging provisional premium of ₹ 42,293 *i.e.*, @ 3 *per cent* of the market value of the land (₹ 327 per sq m) applicable for the year 1969, with a condition that the lessee would pay the difference between the provisional premium and final premium determined on the basis of a fresh policy. In September 2010, the Government framed the revised policy for charging premium at the rate of 2.5 to 5 *per cent* (depending on the utilisation of TDR) to be charged on the market value of land at the time of sanction of TDR. However, we noticed that the Department had not determined the final premium to be paid by the lessee in accordance with the

revised policy of the Government till date. As per the Ready Reckoner for the year 2004, the rate of land was ₹ 21,500 per sq m and the final premium works out to ₹ 48.53 lakh. Thus, premium amounting to ₹ 48.11 lakh remained to be recovered from the lessee.

After we pointed out the case, the Collector, MSD, Mumbai stated that notice would be issued to the lessee for the recovery of the premium of ₹ 48.11 lakh.

**The Government may direct the Department to review cases wherein provisional premium had been levied and take necessary action to levy final premium and recover the difference.**

In the exit conference the Additional Chief Secretary accepted the recommendation.

#### **4.4.2 Short levy of premium (unearned income)**

(i) One Shri P.Y. Pawar informed the Collector in 1991 that land admeasuring 40,468.56 sq m (ten acres) at Malvani, Taluka Borivali was granted to his forefathers for a period of 999 years on lease for agricultural purpose. In support of his claim he produced a photocopy of letter dated 19 December 1936 from the Pranth Officer (currently Sub Divisional Officer) and requested grant of development permission on the said land. The contention of the individual was rejected by the Collector. The individual took up the matter before the Revenue Minister in August 1992 who accepted the contention of the individual in February 1993. Accordingly, the Collector granted development permission to the lessee in February 2004.

An examination of the records revealed as under:

- A lease agreement was executed between the lessee and the Collector in June 2004 and the Collector levied an unearned income of ₹ 7.31 crore instead of ₹ 8.09 crore for change of use of land. The unearned income was determined short due to allowing deductions on account of expenses towards the cost of land yet to be developed and security cost for protecting the land. These deductions from the market value of land were not permissible as per the GR of September 1983.

After we pointed out the case the Collector, MSD, Mumbai stated (October 2012) that the computation was correct. The contention of the Collector is not acceptable as it is not as per the GR of September 1983 as mentioned above.

(ii) The lessee immediately on receipt of permission in February 2004 from the Collector for development of the land, disclosed on 8 April 2004 that an additional area of 6,070.28 sq m (one acre 20 *gunthas*) which was in his possession may also be granted on lease basis on the same terms and conditions on which the earlier land had been given. The Collector, in May 2006, transferred the additional land to the lessee by recovering an unearned income of ₹ 1.35 crore.

- The land claimed by the lessee to be in his possession was not in his property card and a separate CTS<sup>2</sup> number was generated on the orders of Collector in May 2006. Therefore, there is a reason to believe that

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<sup>2</sup> Chain and Trangulation Survey.

the lessee was in unauthorised possession of this land and had not brought the fact of possession of this land to the notice of the Collector earlier. Under these circumstances the land should be taken back by the Government under the MLR code.

- The unearned income recoverable from the lessee was ₹ 2.92 crore as per the latest Ready Reckoner rate for 2005. This resulted in short levy of unearned income of ₹ 1.57 crore. The value was wrongly computed by incorrect application of rates of 1998 instead of 2005.

The reply from the Department is awaited (March 2013).

(iii) The lessee mentioned above entered into an agreement in June 2004 with M/s Ami Corporation for development of land. The developer requested the Collector for permission to use TDR of 22,445.5 sq m, 3,784.34 sq m and 3,056.60 sq m in November 2004, June 2005 and June 2006 respectively. Permission was granted by the Collector in November 2004, July 2005 and June 2006 by charging premium of ₹ 15.71 lakh, ₹ 2.65 lakh and ₹ 2.14 lakh respectively as per the market value of the land of 1998 instead of the market value as prevailing in 2004, 2005 and 2006. The short levy of premium works out to ₹ 31.87 lakh as shown in the following table:

Year	Quantum of TDR in sq m	Market rate/sq m as per R.R. ₹	Market rate/sq m for the year 1998 ₹	Amount of premium to be charged (Col.2 x 3) (₹ in lakh)	Amount of premium charged as per rate of 1998 (Col. 2 x 4) (₹ in lakh)	Short amount of premium charged (Col. 5-6) (₹ in lakh)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2004	22,445.10	7,000	2,800	39.28	15.71	23.57
2005	3,784.38	7,650	2,800	7.24	2.65	4.59
2006	3,056.60	7,650 <sup>3</sup>	2,800	5.85	2.14	3.71
<b>Total</b>				<b>52.37</b>	<b>20.50</b>	<b>31.87</b>

After we pointed out the case, the Collector, MSD, Mumbai stated (October 2012) that the Revenue Minister in his order dated November 2003 had directed that the market value of 1998 be taken for calculation and the same had, therefore, been adopted. However, this is not correct as the market values as prevailing in 2004-06 should have been adopted.

In the exit conference the Department stated that a reply would be furnished after examining the case in detail.

#### 4.4.3 Recovery of licence fee for functions organised in Gymkhana-regarding

The Government granted permission to various Gymkhanas & Sports Institutions to use halls and open spaces for marriage, reception functions, exhibition, etc., on payment of the applicable licence fee. Prior permission of the Collector was required to be taken in organisation of every such non-sports activity. Licence fee was required to be charged at double the rate if any such

<sup>3</sup> Rate of 2005.

non-sports activity was conducted without the prior permission of the Collector.

The Government (August 1975) allotted land admeasuring 12,180.7 sq m of land at village Chembur, Taluka Kurla, Mumbai, on lease basis to Chembur Gymkhana for 30 years and fixed an annual lease rent of ₹ 201 and revised it in February 2005 to ₹ 2,98,501.

During test check of the records, we noticed that the Chembur Gymkhana had been allowing the use of their grounds for marriage/social functions for rent from 1994 onwards, without the permission of the Collector.

The residents living nearby filed a petition against the sound pollution created at the Gymkhana in the High Court. In response to the petition, the High Court directed (January 1999) Chembur Gymkhana that the club could not hold more than 36 functions in a year and not more than six functions in a month during the marriage season.

A notice was issued by the Collector in December 2007 for not taking prior permission of the Collector for having held these functions and non-payment of licence fee in advance. However, no licence fee has been recovered till date (October 2012).

No mechanism was found available to monitor these activities in respect of the gymkhanas and clubs as no records/registers were being maintained by the Department to monitor such social functions organised by the lessee and details of the amount paid in advance.

After we pointed out the case, the Collector replied that the information regarding the number of such activities conducted by the lessee had been sought for and on receipt of the same, further action would be taken.

#### **4.4.4 Non-fixation of lease rent**

The Government in September 1999 allotted a land admeasuring 1,720 sq m at Amboli, Taluka Andheri, Mumbai to Mukti Foundation on a provisional lease rent of ₹ 11,296.27 per annum for a lease period of 30 years. The leased property was to be used for the purpose of construction of a cultural centre. The final lease rent was to be fixed based on the valuation by the Town Planning and Valuation Department.

During scrutiny of records, we noticed that the lessee was paying lease rent at provisional rate till date as the Department had not fixed the final lease rent till date.

After we brought the facts to the notice of the Department, the Collector, MSD, Mumbai stated (October 2012) that the final rent would be fixed after receipt of the same from the Town Planning and Valuation Department. The fact remains that no action has been taken for fixing the final lease rent for the last 13 years.

## CHAPTER V

### COLLECTOR, PUNE

This chapter contains the results of audit of leased land in Pune district. There were 214 lease cases out of which 55 cases were selected for detailed scrutiny. Results of analysis are mentioned below:

Sr. No.	Category	No. of observations
1	Incorrect grant of lease	2
2	Breach of lease conditions leading to change in purpose, transfer of leasehold rights	36
3	Non-renewal of expired leases	19
4	Irregular sale/transfer of lease hold rights	4
<b>Total</b>		<b>61</b>

The observations are discussed in the following paragraphs:

#### 5.1 Grant of land on lease without fulfillment of mandatory conditions for education purpose

**5.1.1** Government Resolution issued in February 1983 stipulated that an education institution applying for the grant of land should be recognised by the Education Department. Further, R&FD should satisfy itself that 25 *per cent* of the capital expenditure required for putting up the building is immediately available with the applicant and remaining 75 *per cent* is likely to be available within a period of two years. As per lease agreement the lessee was to complete the construction of building within a period of two years.

The Government (August 2009) allotted, land admeasuring 47,300 sq m at *mauza* Jambe, Taluka Mulshi, Pune to Maharashtra Mahila Udyam Trust, Pune on occupancy basis for a primary school, secondary school, hostel and college building and 32,000 sq m of land for playground on lease of ₹ one per annum for a period of 30 years.

We noticed that:

- the estimated capital expenditure of the educational project was ₹ 13.44 crore. Thus the lessee was required to have ₹ 3.36 crore i.e. 25 *per cent* of capital expenditure but as per the records, it was noticed that the lessee, at the time of application, had ₹ 83.87 lakh only. This indicated that the Trust did not fulfill the mandatory condition at the time of allotment and was not entitled to get land on lease. However, the land was granted on lease.
- There was nothing on record to show that the lessee had completed the construction. The Collector also confirmed (August 2012) that the land had not been utilised so far. However, no action was taken for resumption of the land.

**5.1.2** The Government in July 1990 allotted land admeasuring 10,000 sq m at *mauza* Gunvadi, Taluka Baramati, Pune to Vidya Pratishthan, Baramati on

occupancy basis for a college building and 10,000 sq m for a playground on lease basis with a lease rent of ₹ one per annum for a period of 15 years. The lease period expired in 2005.

- We noticed from the letter written by the Secretary of the institution to the Collector (February 2009) that no lease agreement had been executed by the Collector with the applicant institution.
- We also noticed that the institution had received recognition from the Education Department in 2004 for running a primary school and not for a college for which the land was allotted. The institution had also admitted (February 2009) that the required fund for construction of building was not available even at the time of allotment of the land. Thus, the institute did not fulfil the mandatory condition and was not entitled to get the land on lease. However, it was incorrectly allotted the same.

In reply, the Collector stated (August 2012) that necessary action would be taken for completing the lease agreement and added that notice would be issued to the institution. However, no reasons were furnished for allotment of land without fulfilling the mandatory conditions. Thus, the fact remained that the allotment of land was irregular.

## **5.2 Non-execution of lease agreement**

**5.2.1** As per the Government memorandum (February 1965) and the Collector's order (September 1965), land admeasuring 19,117.8 sq m at Survey No. 165/A, (Plot No. 139 to 149) at Hadapsar, Pune was granted to Rayat Shikshan Sanstha for being used as a playground of Sadhna Vidyalaya on lease basis at the annual rent of ₹ one.

We noticed that no lease agreement had been executed by the Collector with the lessee. Besides, the period of lease was not mentioned in the Government Memorandum. The land continued to be in possession of the lessee for 47 years.

In reply, the Collector stated (August 2012) that lease agreement would be executed and the matter regarding fixation of the period of lease would be referred to the Government for orders. Thus, it was noticed that the land continued to be in possession of the lessee for 47 years without a lease agreement.

**5.2.2** As per the Collector's orders of February 1983, land admeasuring 5,401 sq m of survey no. 165/A (Plot No.103 to 109 and 130 to 134) at Hadapsar, Pune, was granted to Rayat Shikshan Sanstha, Satara for being utilised as a playground to be attached to its Sadhna Girls Vidyalaya at the annual lease rent of ₹ 518.60 per annum for a period of 15 years.

We noticed that though the period of lease had expired in 1998 no action had been taken either to renew the lease period or resume the land. There was nothing on record to indicate that a lease agreement had been executed even at the time of allotment of this land on lease in 1983.



### 5.3 Non-utilisation of land for the purpose of education

**5.3.1** The Government allotted (October 1996) land admeasuring 4,000 sq m on occupancy basis for the construction of a secondary school building within two years and 4,000 sq m of land on lease basis for being utilised as a playground at an annual lease rent of ₹ one for a period of 15 years to Chatrapati Shikshan Sanstha.

We noticed that the lessee institution has not constructed the school building till date (September 2012). The Collectorate issued a show cause notice in April 2004.

Further, the lease period for the playground had also expired in December 2011. There was nothing on record to indicate that the lessee has opted for renewal of the lease period. No action was taken to resume the land.

After we pointed out the case, the Collector stated (August 2012) that the proposal regarding regularisation of breach of conditions and extension of lease period would be submitted to the Government for directives.

The fact remained that the lessee should have been evicted and the land resumed as provided for under Section 53 of the MLR Code.

**5.3.2** The Government in March 2005 allotted land admeasuring 30,000 sq m at Mauza Kunenama, Taluka Baramati, Pune to Kasegaon Shikshan Sanstha, Sangli on occupancy basis for construction of a primary school building and 36,200 sq m for being used as a playground on lease basis with a lease rent of ₹ one per annum for a period of 15 years. The lessee was required to complete the construction of the building within a period of two years.

We noticed that

- The institution had not commenced the construction of the school building though more than six years had elapsed.
- The Collectorate stated (April 2012), that the demarcation of the land had not been done by the Land Record Office, Maval till May 2012 which had resulted in non-utilisation of the land for more than seven years.

After we pointed the case, the Collectorate stated that on the basis of request from the institution (May 2012), a proposal for extension of time was sent to the Divisional Commissioner, Pune in July 2012 for onward submission to the Government. However, the fact remained that the land remained unutilised for the purpose for which it was granted.

**5.3.3** The Government in October 1986 allotted land admeasuring 20,242 sq m at mauza Karmoli, Taluka Mulshi, Pune to Pune Zilla Sikshan Mandal, Pune, on occupancy basis for construction of Arts and Commerce college building and 20,241 sq m for being used as a playground on lease of ₹ one per annum for a period of 15 years.

A perusal of lease records revealed the following:

- No lease agreement had been executed for the playground despite a lapse of 26 years.

- The lease period for the playground has expired in 2001, however, no information was available on records to show that the period of lease had been renewed.
- On receipt of a notice (October 2011) from the Collector for breach of condition, the lessee stated (November 2011) that the access to the proposed college for the students was difficult due to the location of the land. However, it was found that the lessee had sought permission for opening of a Vocational Training Centre instead. Further, action taken by the Collector, in this regard, was not available on record.

**5.3.4** The Collector in June 2009 allotted land admeasuring 1,000 sq m at *mauza* Khadki, Taluka Daund, Pune to Pune Zilla Sikshan Mandal, Pune, on occupancy basis for construction of school building and 14,000 sq m for the purpose of a playground on lease rent of ₹ one per annum for a period of 15 years. As per the terms and conditions of the Collector's order a lease agreement was to be executed within three months of an undertaking to be given by the lessee for acceptance of the terms and condition. Further, though the conditions specified that land would be resumed by the Government for breach of condition, no mention was made in the Collector's order regarding the time period within which the construction was to be completed and the stipulated activity started.

We noticed that the land was lying idle even though more than three years had elapsed. Further, no lease agreement had been executed till date.

As no time frame was stipulated for commencing the school activities the Government was not in a position to resume the land. Thus, the codal provisions for resumption of land in case of a breach were rendered ineffective.

**5.3.5** Information furnished by the Department revealed that in the following three cases also, land given for educational purpose was lying unutilised for periods ranging from nine to 22 years but had not been resumed by the Government for breach of condition.

Sr. No.	Name of lessee	Sanction date/ purpose	Area in sq m		Currency of lease	Present status of land
			School (Occupancy rights basis)	Playground (Lease basis)		
1	Nageshwar Vidhyalaya, Nazare, Taluka Purandar	December 2003 ----- School	310.73	860.26 for 15 years	Not expired	Vacant for last 9 years
2	Bhartiya Vidhyapeeth Velu, Taluka Bhore	August 1990 ----- School	12,000.00	8,000 for 15 years	Expired in December 2005	Vacant for last 22 years
3	Dada Jadhavrao Trust	November 2003 ----- School	2,000.00	6,000 for 15 years	Not expired	Vacant for last 9 years
<b>Total</b>			<b>14,310.73</b>	<b>14,860.26</b>		

In none of the above cases verified by Audit there was anything on record to indicate fulfillment of the conditions provided in Government Resolution of February 1983 (like registration and recognition by Education Department, technical qualifications, financial strength and project report of the institutions) that were necessary for grant of land for education purposes, for which it was granted.

#### **5.4 Utilisation of land for other than the allotted purpose**

**5.4.1** The Government (August 1974) allotted a piece of land admeasuring 36,700 sq m (9 acre and 7 *gunthas*) at Talegaon Dabhade, Taluka Maval, Pune to Balmohan Vidya Mandir for construction of a swimming pool and a stadium on lease basis for a initial period of 15 years at an annual rent of ₹ one.

On scrutiny of the case, we noticed from the *panchnama* report (July 2012) of Talathi, Maval that the land allotted in 1974 was being utilised as football and parade ground and that no swimming pool and stadium had been constructed even after a lapse of 38 years from the date of allotment. It was interesting to note that though there was breach of condition, the Collector had renewed the lease period twice, once in 1989 and then in 2004, instead of resuming the land.

After we pointed out the case, the Collector, Pune stated that action would be taken on receipt of report from Tahsildar, Maval.

**5.4.2** As per the property card, land admeasuring 4.99 ha (survey no. 1428) was granted to Shivaji Shikshan Prasarak Mandal, Bawada, Taluka-Indapur, Pune by Collector's order of May 1969 for the purpose of construction of school building, hostel and playground. Part of the land was on occupancy right and part was on lease at the rate of ₹ one.

We noticed from the *panchnama* report (December 2011) of the Circle Officer, Bawada that, in addition to the school activity, the Mandal had constructed 15 shops on the said property and given these shops on rent, from 2002 onwards, without the consent of the Collector. This resulted in breach of condition under which the land was leased to the institution. Though, the breach had occurred 10 years ago, action against the lessee had not been initiated as envisaged under Section 53 of the MLR Code.

In reply, the Collector stated (August 2012) that notice was being issued to the institution with a view to take penal action for the breach.

#### **5.5 Unauthorised transfer of flats/plots**

In respect of Co-operative Housing Societies which are registered under the Bombay Co-operative Societies Act, 1925/ Maharashtra Co-operative Societies Act, 1960 plots/lands are given on lease subject to fulfillment of certain terms and conditions. As per condition (i)(f) of the order of Collector, the societies shall not transfer by way of sale, mortgage or lease the said land and/or building thereon to any person other than the members of the Lessee Society without obtaining the previous consent in writing of the Collector or such other Officer as may be authorised by him in this behalf.

**5.5.1** The Collector (November 1966) allotted 15 plots at village Parvati, Taluka Pune City to Shri Sahakari Co-operative Housing Society Ltd. on lease for 99 years.

On scrutiny of records, we noticed from the *panchnama* report (August 2012) of Circle Officer, Pune City that one member<sup>1</sup> had transferred his plot (No. 236) along with the constructed premises to an individual<sup>2</sup> without the prior approval of the Collector. No information was available on record as to when the plot was transferred.

After we pointed out the case, the Collector stated (September 2012) that detailed inquiry would be made from Tahsildar, Pune City regarding transfer of plot and action taken accordingly.

**5.5.2** The Collector in May 1969 allotted 21 plots at village Parvati Taluka Pune City to Shri Abhinav Co-operative Housing Society Ltd. on lease for 99 years.

Circle Officer, Pune had informed the Collectorate that two plots were transferred by two member to two individuals without the prior approval of the Collector. No information was available on record as to when the plots were transferred.

After we pointed out the case, the Collector stated (September 2012) that detailed inquiry would be made from Tahsildar, Pune City regarding transfer of plot and action taken accordingly.

## 5.6 Other irregularities

**5.6.1** Based on the R&FD Memorandum (February 1969), the Collector, Pune issued an order (April 1969) granting government land admeasuring 20 acres at Katraj-Dhankawadi, Taluka Haveli to Maharashtra Rajya Milk Sahakari Sangh Ltd., Pune on lease basis subject to fulfilment of certain terms and conditions for an initial period of 10 years for dairy farm at the annual lease rent of ₹ 3,500 from the date of taking over possession of land. The said order stipulated that after expiry of the lease period, if the Sangh is not in a position to purchase the land, full rent at 5 *per cent* of existing market value is to be recovered. As per the sanction order, transfer of leasehold rights was not allowed.

However, we noticed that the lessee had transferred all assets and liabilities as of June 1972 itself to Pune District Co-operative Milk Federation Ltd. without the approval of the Government, resulting in breach of condition.

The lessee should have been evicted and the land resumed as provided for under Section 53 of the MLR Code.

**5.6.2** A land admeasuring 1,00,000 sq m at *mauja* Dehu, Tahsil Haveli, Pune was allotted to Maharashtra Gandhi Smarak Nidhi, Kothrud, Pune in 1993 for plantation purpose on lease basis at an annual lease rent of ₹ one for a period of 30 years. The lessee had been prohibited from constructing huts on the plot.

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<sup>1</sup> Shri Arun Shankar Risbud.

<sup>2</sup> Shri Shirish Sable.

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During test check of the lease records, we noticed that the lessee had not utilised the land for plantation purpose for the past 19 years resulting not only in breach of condition of lease but also in encroachment by 288 slum dwellers.

The Circle Officer, Chinchwad, Pune brought the fact about the encroachment of the land to the notice of Tahsildar, Haveli, Pune in November 2011 but no action was taken by the Tahsildar to remove the encroachment nor was the issue brought to the notice of the Collector.

The fact remained that the land should have been resumed as provided for under Section 53 of the MLR Code.

**5.6.3** As per the Government memorandum (June 2005) land admeasuring 9,500 sq m at Survey No. 165/A, at Hadapsar, Pune was granted to Rayat Shikshan Sanstha for being used as a playground attached to College and I.T.I on lease basis for a period of 15 years. The lease rent was to be charged as per the GR issued in May 1984.

During test check of lease records, we noticed that the lease rent was not fixed despite a lapse of more than six years.

The Collector accepted (August 2012) the observation and determined the total lease rent of ₹ 21,664 for the periods 2006 to 2012 and stated that same would be recovered.

**5.6.4** Based on the Government letter of April 2007, the Collector, Pune sanctioned (November 2009) land admeasuring 12.5 acre at Lonikand, Taluka Haveli, Pune to Smt. Swati Vinayak Nimhan on lease for a period of 10 years, for mining purpose. The copy of the lease agreement was not available on record. The lease rent was to be determined annually. The consent for manufacture of crushed stone was granted by the Maharashtra Pollution Control Board in October 2007 for a period of five years.

Audit scrutiny of records revealed that

- There was nothing on record to ascertain whether the land is being utilised for carrying out mining activity.
- The sanction order of the Collector was silent about the time frame within which the mining activity ought to have commenced.
- There was nothing on record to indicate that the lease rent after 2008-09 had been recovered.

After we pointed out (September 2012), the Collectorate confirmed that land was not being used for mining purposes and stated that a *panchnama* in this case was done (October 2012) by the Talathi. Information on further action taken in this regard had not been received (March 2013).

**5.6.5** Based on the Government memorandum (July 1984), the Collector allotted (July 1984) land admeasuring 1,011.7 sq m at Yerawada, Pune to an individual on provisional annual lease rent of ₹ 18,635 for a lease period of 30 years on the conditions that differential amount, after final rent is fixed would be paid by him along with interest. The land was to be used for construction of gas godown and showroom. An undertaking to this effect was also required to be furnished by the lessee before taking possession of the land.

We noticed that the lessee was paying lease rent at the provisional rate till date as the Government had not fixed the final lease rent. Failure to initiate appropriate action by the Collector led to inordinate delay in fixing the final lease rent and interest though 28 years had elapsed since allotment of land. Further, neither a lease agreement had been executed nor was an undertaking obtained from the lessee for fulfillment of purpose for which the land had been allotted.

It is suggested that all such cases be reviewed and lease rent fixed.

**5.6.6** Based on Government Memorandum (September 1981), the Collector, Pune allotted (June 1982) land admeasuring 900 sq m for a school building (Shri Sant Muktabai Vidyalaya) and 600 sq m for a building a hostel on occupancy rights and 34,875 sq m of land on lease basis for 15 years for the purpose of a playground at an annual rent of ₹ one to Rayat Shikshan Sanstha, Shelgaon, Taluka Indapur, Pune. Further, 24 acres of land was also allotted on *eksali* (one year) basis on charging of a “usual rent” for cultivation purpose.

We noticed from the *panchnama* report (date not mentioned in the Report) of the Talathi and 7/12 extract<sup>3</sup> that the institution had not utilised the land for which the land had been allotted. Though the lease for the playground had expired in June 1997, neither had the lease been renewed nor had the land been resumed by the Collector. We also noticed that in respect of the land leased out for cultivation, though the lease had expired in June 1983, the “usual rent” had neither been determined nor recovered. No information was available on record to confirm that the Department had initiated any action for breach of conditions though 30 years had elapsed since allotment of land.

In reply, the Collector stated (August 2012) that notice was being issued to the lessee for breach of condition. The fact remained that no action had been taken to resume the land even though condition for allotment of land had not been fulfilled.

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<sup>3</sup> Record indicating the occupant of the land and the purpose for which the land is utilised.

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## **CHAPTER VI**

### **MUMBAI METROPOLITAN REGION DEVELOPMENT AUTHORITY**

Mumbai Metropolitan Region Development Authority (MMRDA) was established in January 1975 by the Government of Maharashtra under the MMRDA Act, 1974, as an apex body for planning and co-ordination of development activities in the Mumbai Metropolitan Region. The MMRDA functions under the administrative control of the Urban Development Department (UDD), Government of Maharashtra.

There are 152 cases of Government land admeasuring 20,15,906.98 sq m given on lease by MMRDA in Mumbai and Thane Districts. Of these, 53 cases in Mumbai (recreation-7, commercial-33, social-8, residential-5) admeasuring 6,56,725.55 sq m were selected for detailed scrutiny.

#### **6.1 Acts and Rules**

MMRDA (Disposal of Land) Regulations, 1977, subsequently amended in 1984 and 1997 stipulates that land can be leased out in consideration of a premium or rent or both for a term not exceeding 80 years. The land can be disposed of by public auction, public advertisements, inviting/ accepting offers from the Government, Local Authority or Public Sector Undertakings, public charitable trusts for educational or medical purposes, inviting applications through public advertisements on the basis of pre-determined premium and/or other considerations and accepting these applications by drawing lots and in case of inadequate applications on 'first come first serve' basis. For development of land in Bandra-Kurla, 'The Bandra Kurla Notified Area Development Control, Regulations, 1979' and for development of land in Wadala Truck Terminal 'Development Control Regulations, 2010' were framed.

#### **6.2 Organisational set up**

MMRDA is constituted of 17 members headed by the Minister, UDD, Government of Maharashtra. All decisions on the land allocation made by the Committee are implemented by the Metropolitan Commissioner aided by the Dy. Metropolitan Commissioner (Land/Estates).

#### **6.3 System of allotment**

Land admeasuring 21,63,613 sq m in 'E', 'G' and 'H' Block of Bandra Kurla Complex (BKC) was allotted to MMRDA by the Government between January 1979 and February 1985. The occupancy price payable by MMRDA to the Government for the gross area of land in undeveloped and unreclaimed condition was fixed at ₹ 200 per sq m for 'E' Block and ₹ 500 per sq m for 'G' Block. Government (October 2005) handed over an additional 6,55,100 sq m of land at Wadala Truck Terminal to MMRDA for which ground rent at a nominal rate of ₹ one was to be paid by MMRDA to the Government.

MMRDA gives land on lease by way of inviting tenders through public advertisements. The tender is finalised in favour of the highest bidder.

MMRDA executes the Lease Deed and the possession of land is delivered to the lessee after the receipt of premium in full. Clause 2(d) of the lease deed executed between MMRDA and the lessees, states that the lessee shall commence construction on the plot within three months from the receipt of approval for plans and specifications and complete it for occupation within four years from the date of lease. Further Clause 2(e) (i) of the lease deed and Regulation 11<sup>1</sup> of MMRDA (Disposal of Land) Regulations, 1977 state that if the lessee does not adhere to the time limit as mentioned in clause 2(d) for reasons beyond control, the Metropolitan Commissioner (MC) may, on payment of additional premium, at the following rates, by the lessee, permit extension of such time:

Up to 1 year	25 per cent of the premium
Between 1 and 2 years	35 per cent of the premium
Between 2 and 3 years	40 per cent of the premium

Clause 2(e)(ii) of the lease deed provides that if the MC refuses to permit such extension of time or shall find the lessee of having committed breach of any condition or covenant during the time limit mentioned in clause 2(d), he may forfeit and determine the lease; provided that in the event of such determination of lease, 25 per cent of the premium paid by the lessee to the Authority shall stand forfeited and the remaining 75 per cent of such premium shall be refunded; provided further that the MC shall have given to the lessee a notice in writing of intention to do so and of the specific breach of the covenant or condition in respect of which forfeiture is intended and default shall have been made by the lessee in remedying such breach within three months from the serving of notice.

The floor space index (FSI) applicable in MMRDA is 4 as compared to 1, 1.33 and 2.5 applicable to Government, Municipal and MHADA lands respectively in Greater Mumbai.

## **6.4 Non-recovery of lease premium, lease rent, etc.**

**6.4.1** MMRDA (Disposal of Land) Regulations 1977 does not provide any specific provision for monitoring the progress of work on the allotted plots. Clause 3(g) of the lease deed provides that the lessee has to build according to Development Control Regulations and Building Regulations or Municipal Regulations in force from time to time and to observe and confirm that the building or erection thereof or addition thereto is completed as per rules and regulations. If the lessee<sup>2</sup> does not adhere to the prescribed time limit, extension of time can be granted subject to the payment of additional premium at the rate of 10 per cent of the lease premium upto three years, thereafter the rate of additional premium is 15 per cent of lease premium.

We found in six cases that the construction was not completed within the prescribed period of four years. No system was put in place by way of returns and inspections to ascertain the status of construction. There was nothing on

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<sup>1</sup> Amended in March 1997.

<sup>2</sup> Semi Government and public and private sector organizations.



record to indicate that the lessees had sought extension for construction. The lessees were liable to pay additional premium aggregating to ₹ 272.36 crore @ 10 per cent as mentioned in the following table:

(₹ in crore)

Sr. No.	Name of the lessee	Purpose	Date of lease deed	Probable date of completion	Lease premium charged	10 per cent addl. lease premium to be recovered
1	Naman BKC Co-op. Hsg. Socy. Ltd.	Residential	4-12-2007	3-12-2011	20.39	2.04
2	Starlight Systems Pvt. Ltd.	Residential	27-7-2006	26-7-2010	136.90	13.69
3	Reliance Inds. Ltd.	Commercial	1-9-2006	31-8-2010	1,104.00	110.40
4	Shree Naman Developers	Commercial	9-6-2006	8-6-2010	204.60	20.46
5	Jet Airways (India) Ltd.	Commercial	17-8-2006	16-8-2010	339.73	33.97
6	Reliance Inds. Ltd.	Commercial	15-7-2008	14-7-2012	918.06	91.80
				<b>Total</b>	<b>2,723.68</b>	<b>272.36</b>

The above facts were communicated to the Government in November 2012. In the exit conference the department stated that the amount would be recovered at the time of issue of occupancy certificate. However, the reasons for not demanding it at the time when the time period for completion as provided in the Act was over in such cases were not provided.

**It is recommended that the Government advise MMRDA to put in place a system of periodical returns and regular inspections to ascertain status of construction and levy premium when grant of time extension was due to be sought.**

**6.4.2** MMRDA allotted a plot admeasuring 3,637.04 sq m in G Block of BKC to M/s. Enam Financial Consultants Pvt. Ltd. with maximum permissible built-up area (BUA) of 7,700 sq m and executed (August 2006) lease deed for development of Commercial office building for a period of 80 years on payment of lease premium of ₹ 87.98 crore.

Government increased (May 2008) the FSI for commercial use from 2 to 4. The lessee requested on 5 November 2009, 26 August 2010 and 11 March 2011 for additional BUA of 2000, 515 and 150 sq m to be allotted to lessee. MMRDA allotted additional BUA of 2,665 sq m for a premium of ₹ 19.65 crore, ₹ 5.55 crore and ₹ 2.10 crore to the lessee.

The premium was payable in five equal installments of 20 per cent with simple interest @ 10 per cent per annum and delay in payment of instalment attracted penal interest at the Prime Lending Rate (PLR) decided by Reserve

Bank of India. The lessee paid the first installment on 31 March 2010 but did not pay the subsequent instalments due on 31 March 2011 and 31 March 2012. For delayed payment of the instalments, the lessee was required to pay interest at the PLR. However, MMRDA neither levied the interest of ₹ 1.13 crore (payable upto October 2012) nor demanded the premium amount of ₹ 8.26 crore. This resulted in non-realisation of revenue of ₹ 9.39 crore.

The matter was brought to the notice of MMRDA (July 2012). Reply is awaited (March 2013).

**6.4.3** As per the Bandra Kurla Notified Area Development Control Regulations, 1979, FSI<sup>3</sup> for commercial plots is two.

MMRDA accepted (May 1995) the offer of Citibank for lease of commercial plot admeasuring 3,637.04 sq m @ ₹ 86,086 per sq m at G Block of BKC with a BUA of 7,274.08 sq m. The possession was given in October 1995. As the allotted land came under the purview of Coastal Regulation Zone as per Supreme Court orders of April 1996, a new plot admeasuring 3,818.19 sq m was allotted (August 1996) with the same BUA of 7,274.08 sq m. However, as the FSI of two for commercial plots was applicable, the BUA to be provided was 7,636.38 sq m and not 7,274.08 sq m as allotted by MMRDA.

This resulted in short determination of BUA to the extent of 362.30 sq m and resulted in foregoing a revenue of ₹ 3.12 crore<sup>4</sup> by MMRDA.

The matter was brought to the notice of MMRDA (July 2012). Reply is awaited (March 2013).

**6.4.4** MMRDA disposes land by way of inviting tenders through public advertisements.

MMRDA decided (December 2007) to lease out land admeasuring 5,900 sq m situated in GN block at Bandra-Kurla Complex for educational or medical purposes by calling for bids and fixed the reserve price @ ₹ 1.53 lakh per sq m. It was also decided that four conditions be met by the applicants/bidders.

- work area be based in Mumbai.
- five years experience in the field of education,
- financial capacity to construct the building, and
- institution should be registered under Public Trust Act.

Audit scrutiny of the records revealed that:

- condition pertaining to work area was deleted under the instructions of the Metropolitan Commissioner. No reason for relaxation of the condition and his express approval for the same was found on record.

Thereafter, MMRDA invited (July 2008) bids and received only one bid for the plot *i.e.*, Taleem Research Foundation (TRF) whose offer price was ₹ 1.55 lakh per sq m. MMRDA while evaluating the bid observed that:

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<sup>3</sup> FSI is prescribed by Bandra Kurla Notified Area Development Control Regulations, 1979 and is used for working of BUA.

<sup>4</sup> 362.30 sq m x ₹ 86,086.

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- TRF had submitted insufficient documents relating to its experience in the field of education and financial capacity to construct the building. However, TRF was given (August 2008) a chance to rectify the deficiencies noticed in the bid and on receipt (September 2008) of the same the bid was accepted. The land was allotted (October 2008) for 80 years at premium of ₹ 92 crore to TRF which paid (10 December 2008) being 50 *per cent* of the lease premium and paid the balance lease premium in November 2009 after obtaining extensions from time to time.

The above facts revealed that the allottee was given undue favour.

It was further observed that the reserve price fixed in the 120<sup>th</sup> Meeting held on 21 December 2007 was incorrect as discussed below:

The last bid that took place was of J. H. Ambani Foundation in 2007. The reserve price in this case (*i.e.* J. H. Ambani Foundation) was fixed at the market rates applicable at that time. However, in the present case reserve price was fixed (in the 120<sup>th</sup> Meeting) at the highest price fetched in the last bid, which was one year old. Thus, reserve price was fixed at ₹ 1.53 lakh per sq m instead of ₹ 5.04 lakh per sq m at current market rate (2008). Adoption of lower rates resulted in short fixation of reserve price by ₹ 3.49 lakh<sup>5</sup> per sq m and loss of lease premium of ₹ 205.91 crore<sup>6</sup>.

MMRDA stated (June 2012) that the reserve price fixed was based on the current market and global economic conditions. As regards submission of insufficient documents by the bidder, MMRDA stated that TRF had only submitted additional information, supporting documents and original documents for verification.

The reply is not acceptable as the reserve price of ₹ 1.53 lakh per sq m was fixed (December 2007) by MMRDA only by considering the rate offered to M/s J. H. Ambani Foundation without any reference to the market and global economic conditions. Besides, it was recorded in the Minutes of MMRDA's Meeting (15 October 2008) that TRF had submitted incomplete information along with the bid.

#### 6.4.5 Outstanding recovery of ground lease rent

As per the information of the Land Cell, an amount of ₹ 67.85 lakh, on account of ground lease rent, was outstanding as on 31 March 2012. Of these, two cases pertain to private associations as mentioned below:

(₹ in lakh)

Sr. No.	Area	Name of the defaulters	Pending since	Outstanding amount of rent
1	Wadala Truck Terminal	Mahasang	March 2006	42.62
2	Wadala Truck Terminal	Bombay Goods Transport Association (BGTA)	March 2006	21.68
<b>Total</b>				<b>64.30</b>

<sup>5</sup> Prevailing market rate (₹ 5.04 lakh per sq m) – TRF's offer price (₹ 1.55 lakh per sq m).

<sup>6</sup> ₹ 3.49 lakh per sq m x area of 5,900 sq m = ₹ 20,591 lakh.

MMRDA stated that notices and reminders were issued to the defaulters for recovery of the outstanding amount (June 2012).

Further, ₹ 3.55 lakh were outstanding against the Income Tax department and Reserve Bank of India on account of ground lease rent.

Non-existence of an effective mechanism for recovery resulted in ground lease rent remaining outstanding for periods ranging from one to seven years.

**Government may devise effective mechanism for timely recovery of dues.**

## **6.5 Monitoring and control**

### **6.5.1 Failure to invoke Bank Guarantee**

As per the lease deed executed in January 2007, MMRDA allotted a plot (recreational ground) admeasuring 37,252 sq m in 'G' Block of BKC, to M/s Reliance Industries Ltd (RIL), with a permissible BUA of 67,092 sq m, on lease for 80 years, for construction of a two level underground car parking space with a garden above. The lease deed was executed (July 2007) after payment of a premium of ₹ 11 lakh. As per Clause no. 4.13 (s) of the bid document, the allottee was to complete construction of the two level underground car park and develop a garden on the plot within a period of four years from the date of execution of the lease agreement. For the faithful compliance of this condition, the allottee was to give a bank guarantee of ₹ 50 crore which would be kept valid for four years from the date of agreement. If the construction of the two level underground car park was not completed within four years, the bank guarantee of ₹ 50 crore was required to be invoked by MMRDA. It was noticed that RIL did not construct the two level underground car parking. The bank guarantee valid upto July 2011 ought to have been encashed by MMRDA. Instead, it was found to have been extended upto July 2013.

The matter was brought to the notice of MMRDA (July 2012). Reply is awaited (March 2013).

### **6.5.2 Irregular amalgamation of area leading to increase in size of flats**

Urban Development Department (UDD) notified (May 1983) that MMRDA would be implementing the Powai Area Development Scheme (PADS) in selected Mumbai suburban districts. A tripartite agreement was executed (November 1986) between State Government, MMRDA and the developer on behalf of initial land holders of Powai. The agreement to lease was executed (November 1986) for a lease period of 80 years at a premium of ₹ one per hectare and the total area of construction for residential tenements was 4,54,817.62 sq m.

Clause 7(iii) of the tripartite agreement provided that each of the 50 *per cent* of such units shall not exceed 40 sq m as measured in terms of FSI and each of the remaining 50 *per cent* units shall not exceed 80 sq m in terms of FSI.

The developer requested (June 1989) MMRDA to permit amalgamation of 'adjacent two flats or one flat above the other' for joint usage which will not

exceed 15 *per cent* of the overall development. MMRDA conveyed (August 1989) “no objection” permitting the amalgamation subject to certain conditions.

A complaint (January 2007) was made against the developer stating that the developer had amalgamated all the premises constructed by them and laid them out as bigger sized tenements.

UDD directed (March 2008) MMRDA to calculate the area of the tenements which were more than 40 sq m and 80 sq m respectively and recover a penalty of ₹ 300 lakh (part payment) as deposit from the developer for violation of the tripartite agreement and obtain an undertaking that he would abide by the final decision of the Government and observe the conditions of the Tripartite Agreement for ongoing construction works.

A six member Committee appointed by the Government submitted (December 2008) a report to the Government stating that the developer amalgamated/combined 2,026 flats of 40 sq m area and 443 flats of 80 sq m area violating the conditions for amalgamation.

MMRDA reported (January 2009) the gross violation of the Tripartite Agreement to the Government and requested for levy of a penalty of ₹ 1,993.22 crore on the developer. The developer went in arbitration and it was decided (August 2011) to set aside the joint claims made by MMRDA and the Government for recovering the penalty.

The Government and MMRDA jointly filed a petition (November 2011) in the High Court against the orders passed by arbitrator. However, in 2008 Motilal Kamlakar Satve, Rajendra Thacker and Medha Patkar also filed public interest litigation (PIL) in this matter. The Court in its order dated February 2012 directed the developer to construct 1,511 flats of 40 sq m and 1,593 flats of 80 sq m without any amalgamation on the vacant land available.

The above facts indicated that the amalgamation of flats could have been avoided had the project been monitored by MMRDA at regular intervals.

## **CHAPTER VII**

### **MAHARASHTRA HOUSING AND AREA DEVELOPMENT AUTHORITY**

Maharashtra Housing and Area Development Authority (MHADA) has been established by the Maharashtra Housing and Area Development Act, 1976. MHADA co-ordinates and controls the activities of seven Regional Housing Boards set-up for each revenue division in the State viz. Mumbai, Konkan, Pune, Nashik, Nagpur, Amravati, Aurangabad. The Authority functions under the administrative control of the Housing Department, Government of Maharashtra.

The disposal of land of MHADA on lease is governed by:

- Maharashtra Housing and Area Development (Disposal of Land) Rules, 1981 [MHAD(DL) Rules]
- Maharashtra Housing and Area Development (Disposal of Land) Regulations, 1982 [MHAD(DL) Regulations]

#### **7.1 Organisational set up**

The Authority constitutes of a President, a Vice President & Chief Executive Officer and seven other members all appointed by the State Government. The Vice President and Chief Executive Officer is the administrative head of the Authority. The issues relating to allotment of land, verification of eligibility conditions, execution of lease deed, etc., for Mumbai and Pune are handled by the Mumbai and Pune Boards, respectively.

The Mumbai Board is headed by a Chief Officer assisted by a Joint Chief Officer and three Asst. Land Managers. The Pune Board is headed by a Chief Officer and assisted by a Dy. Engineer (Land).

#### **7.2 System of allotment**

MHADA allots the vacant land by inviting tenders/application or by offering/accepting bids from the Government, local authority, public sector undertaking, public charitable trusts or societies. The plots are also allotted in accordance with the directions of the State Government under Regulation 16 of MHAD(DL) Regulations, 1982. Land admeasuring 3,55,355.18 sq m in 112 cases was allotted under Regulation 16 by MHADA.

In order to allot the land under Regulation 16 a cabinet sub-committee is constituted with Minister of Housing as President and Ministers of Finance and Industry, State Minister of Housing and Principal Secretary, Housing as Members.

Regulation 16 of MHAD (DL) Regulations, 1982 framed under MHAD Act requires that the plots reserved for amenities or for purely commercial purposes in any layout prepared by the concerned Municipal Corporation in a land situated in Greater Bombay, Thane, Ulhasnagar, Pune, Kolhapur, Sangli-Miraj, Solapur, Nashik and Nagpur and two *per cent* plots reserved for residential use and to be allotted to the individual or co-operative housing societies shall be dealt in accordance with the directions of the State

Government. Only land allotted as per Regulation 16 were selected by Audit for test check.

Land is given for commercial, residential, educational and social purposes. The period of lease is 30 years and lease premium and lease rent is recovered vide Resolution No. 3094 of MHADA dated 16 November 1992 revised by MHADA from time to time.

On the request of the applicant, the Government of Maharashtra in exercise of the powers under Regulation 16 of MHAD (DL) Regulations, 1982, decides in its cabinet sub-committee meeting to lease out the plot of land developed by MHADA to the applicant and Government in Housing Department directs MHADA to allot the plot of land on lease to the applicant on the terms and conditions as given below:

1. As per the Development Control Regulation
2. As per the rules and regulations of Municipal Corporation of Greater Mumbai
3. As per the rules and regulation of MHADA
4. As per the pricing policy of MHADA

In response to the Government directives, MHADA allots the plot of land to the applicant and after verification of all the eligibility conditions, issues offer letter communicating the terms and conditions of allotment to the applicant and requests the lessee to make payment towards lease premium and lease rent. Once the lessee accepts the terms and conditions of allotment and makes the full payment towards lease premium and lease rent, as per Regulation 10 MHAD (DL) Regulations, 1982 lease deed is executed between the lessee and MHADA.

The results of the Performance Audit are mentioned in the succeeding paragraphs.

### **7.3 Non-resumption of land**

Section 10 of the MHAD(DL) Regulations, stipulated that the possession of land shall not be delivered in the hands of the lessee before the execution of the lease deed.

**7.3.1** A plot admeasuring 3,104 sq m was reserved for a drama theatre in Kannamwar Nagar, Vikhroli, however, it was allotted to Maharashtra Kamgar Kalyan Mandal for construction of a swimming pool with the instructions that deresrvation shall be got done by the lessee and construction of the pool was to be completed within one and a half years from the date of handing over possession of the land. No lease deed was, however, executed.

Though, the possession of the plot was handed over in 1998, the swimming pool had not been constructed.

MHADA directed (July 2003) the Mandal to return possession of the land. However the said plot had not been resumed by MHADA in spite of a lapse of nine years.

**7.3.2** A reference is invited to para no. 3.3.1 of the Comptroller and Auditor General's (Civil) Audit Report 2008-09. Land admeasuring 10,000 sq m at Oshiwara reserved for a hospital was allotted to Nargis Dutt Memorial Trust in October 2000 for establishing a hospital. The Trust was required to make payment of ₹ 21.37 crore towards lease premium in December 2007, which was reduced to ₹ 11.71 crore in February 2009. The Trust paid an amount of ₹ 2.93 crore only in February 2009. No further payments have been made by the Trust till date.

Thus, despite a lapse of more than 12 years neither action has been taken to resume the land nor the Trust has been directed to construct the hospital.

**The Government in Housing Department may consider directing MHADA to institute strict action in the event of non-compliance of the terms and conditions of lease.**

**7.3.3** Land admeasuring 924 sq m at Oshiwara was allotted (February 1993) to Bruhad Mumbai Gujarathi Samaj (Trust) for construction of a Health Centre. As per clause 2(c) of the lease deed, the land was to be used for construction of a building for social and educational activities and not for any other purpose not specifically permitted by MHADA. Further, as per clause 2(k) of the lease deed, the Trust could not assign, sublet, underlet or transfer the possession in whole or in part and also change the use of land without previous written permission of MHADA.

We noticed from the order (May 2010) passed by the Joint Charity Commissioner, Greater Mumbai Region, Mumbai that the Trust had sub-leased 224.35 sq m of constructed area to M/s Satra Properties (I) Ltd for commercial use for a premium of ₹ 2.17 crore and a monthly rent of ₹ 15,000. Subsequently, the Trust requested (July 2010) MHADA for a "No Objection Certificate" for the sub-lease. MHADA directed (April 2011) the Trust to furnish the dates on which the land was subleased and the premium amount accepted since the same had not been communicated to them.

Thus, the property was sub-leased without the prior permission of MHADA.

**The Government in Housing Department may consider directing MHADA to ensure that the lessees fulfill the eligibility criteria laid down to prevent commercial exploitation of land meant for social purpose.**

## **7.4 Violations of Act/Rules**

### **7.4.1 Allotment of land in violation of regulations**

Regulation 5 of the MHAD(DL) Regulations stipulates that vacant land to be used for other than residential purpose shall be allotted to a public charitable trust or a society registered under the Societies Registration Act, 1860.

Government in Housing Department allotted (December 2002) a plot admeasuring 40,000 sq m (comprising some land reclaimed by MHADA, mangroves<sup>1</sup> and creek<sup>2</sup>) to Crescent 3M Gymkhana at Andheri (W), Mumbai,

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<sup>1</sup> A class of medium sized trees growing in the saline coastal sediments in the tropics. They are of ecological importance.

<sup>2</sup> A water channel connected to the sea which is affected by ebb and flow of ocean tides.



a company incorporated under the Companies Act, 1956 for a Recreation Centre. MHADA issued (April 2005) an offer letter and a lease deed was executed on 14 October 2005 on receipt of lease premium of ₹ 75 lakh and capitalized lease rent of ₹ 23.43 lakh from the lessee. However, the High Court vide judgement dated 6 October 2005, ordered a total freeze on the destruction and cutting of mangroves, dumping of debris in mangrove areas and carrying of construction activity within 50 meters of such areas in the entire State of Maharashtra. The order also forbade any authority from granting permission for development activity in lands falling under the mangrove areas regardless of the nature of ownership of the land.

Thus, the allotment made subsequent to the Court judgement was in violation of the directions of the High Court.

#### **7.4.2 Delay in execution of lease agreement in violation of the provision of Act/Rules**

Section 10 of the MHAD(DL) Regulations, stipulated that the lease deed shall be executed in favour of the allottee after full payment of the lease premium and possession of the land shall not be delivered prior to the execution of lease deed. Further, as per the terms and conditions of the offer letter, the construction work should be completed within three years from the date of taking over possession of the land or such period as extended by the Authority for an additional premium and/or lease rent on the request of the lessee.

We observed that possession of land was given three months prior to the execution of lease deed (March 1994) to Anchor Foundation and about six years prior to the execution of lease deed (October 1993) to Vagad Vishal Oswal Vikas Samaj. The lessees failed to complete the construction within the stipulated period. MHADA failed to take action against the lessees.

The matter was brought to the notice of MHADA (August 2012). Reply is awaited (March 2013).

### **7.5 Lease premium, lease rent, etc.**

#### **7.5.1 Non-levy of interest on delayed payment**

As per the provisions of Resolution no. 5882 of MHADA dated 20 February 2003, delayed payments by the lessee on account of cost of land including lease premium and/or capitalised amount of lease rent attracts interest @ 18 *per cent* in case of commercial use and 13.5 *per cent* in other cases.

A recreation ground admeasuring 4,425 sq m was allotted (March 2002) to M/s Legend Recreation Club by the Government in Housing Department. Letter demanding payment of ₹ 1.65 crore was issued (January 2006) to the Club and the payment was to be made within 30 days from date of the receipt of the letter by the Club.

We observed that the Club paid ₹ 5 lakh and the balance amount of ₹ 1.60 crore in four installments between April 2006 and November 2007. The installments were paid after delays ranging from 28 days to 626 days and

attracted interest of ₹ 33.42 lakh on the delayed payments. However, interest for delayed payments was not levied.

Failure of MHADA to institute any action for the recovery of interest from the club resulted in loss of revenue amounting to ₹ 33.42 lakh.

The matter was brought to the notice of MHADA (August 2012). Reply is awaited (March 2013).

### 7.5.2 Short levy of lease premium

We noticed in the following three cases, lease premium rate was incorrectly applied which resulted in short levy thereof as follows:

Name of housing society	Built-up Area (sq m) /Rate (₹)	Premium		
		Leviable	Levied	Short levy
		(₹ in crore)		
As per Resolution No.3094 dated 16 November 1992 the rate of premium included three elements viz, rate of under developed plot five years prior, interest thereon and updated Development Cost. In the following two cases, interest portion on land was omitted to be levied .				
Akashganga Housing Co-op. Society (Yashodeep), Oshiwara	<u>3,492</u> 3,610	1.26	0.87	0.39
Shivai Co-operative Hsg.Society (Tarangan), Oshiwara	<u>1,320</u> 8,330	1.10	0.80	0.30
The premium is payable at the rates prescribed in Annual Schedule of Rates (ASR). The land was offered in 2005. In accordance with the Resolution No.5931 dated 21 June 2003 the rate of the ASR of that year should be applied in which the land is offered. But rates of ASR of 2002 were incorrectly applied as mentioned below :				
Siddhant Sahkari Grihnirman Sanstha, Aramnagar, Versova	<u>1,394.75</u> 25,515	3.34	0.58	2.76
After we pointed out these cases, MHADA stated that Government had directed (March 2004) to charge the premium and lease rent based on the market rate applicable at the time of decision taken by the cabinet sub committee (August 2002). The reasons for this undue favour were not found on record as the prevailing market rates ought to have been applied.				

### 7.5.3 Non-recovery of lease rent

As per the conditions of lease deed, lease rent is payable annually by the lessees within five days from the completion of the year of lease. In case of default in payment of lease rent for 30 days, penal interest @ 16.5 per cent per annum is leviable on the amount of lease rent due.

We noticed that there was no system of raising demands in MHADA, the payment of the lease rent was left to the lessees. Audit observed that in six cases the lessees had not paid their lease rent for periods ranging from 10 to 16 years. In the absence of any system, this had escaped the notice of MHADA. Based on the lease rents calculated as per the lease deeds of the

respective lessees lease rent of ₹ 1.93 crore as detailed in **Appendix –XII** was recoverable from the lessees.

The matter was brought to the notice of MHADA (July 2012). Reply is awaited (March 2013).

**The Government in Housing Department may issue necessary instruction to MHADA for reviewing all cases in respect of lease rent and demands for outstanding lease rent may be worked out and issued.**

## CHAPTER VIII

### MUNICIPAL CORPORATION OF GREATER MUMBAI

The Municipal Corporation of Greater Mumbai (MCGM) is the custodian of Government land entrusted to it under Section 91A of the Mumbai Municipal Corporation Act, 1888 (MMC Act) from the date on which the City of Bombay Municipal (Amendment) Act, 1933 came into operation. The Corporation works under the administrative control of the Urban Development Department, Government of Maharashtra. All the immovable and other properties and all other interest and rights of the Board of Trustees for the improvement of the city of Bombay constituted (prior to 1933) under the City of Bombay Improvement Trust Transfer Act, 1925, including all the estates, rights, titles and interest of the said Board in and to the lands specified in Schedule 'W' and 'V' (Section 89 A) were transferred to the Corporation.

There were 184 cases of Government land given on lease and regulated by MCGM. The lease records were not computerised and as per the records, the total area involved in 167 cases was 19,05,980 sq m and in 17 cases the area was not available. Out of these, 52 cases [Residential (28), Commercial (18) and Industrial (06)] were scrutinised during the Performance Audit. The period for which land was given on lease ranged from 19 years to 999 years.

#### 8.1 Organisational set up

MCGM is headed by the Municipal Commissioner who is assisted by the Additional Commissioner and Assistant Commissioner (Estate). The Government land which was leased by the erstwhile Bombay Improvement Trust vested in the Corporation. As per Section 49A of MMC Act, MCGM shall appoint a committee to be called the Improvements Committee (IC) for the purpose of improvement of the City in accordance with the provisions of this Act.

#### 8.2 System of allotment

Section 91 B of the Act provided that on termination of existing lease, the property shall vest with the Government. As per amendment to Section 91B of the Act, from October 1998 such revested property can be leased afresh for a further period of 30 years. MCGM may revise the rates of lease rent after every 10 years, provided that, while revising such rates it shall be bound by the policy of Revenue and Forest Department for leasing of Government land. Furthermore, MCGM shall pay to the Government, an amount equal to half of the lease rent received by it. After expiry of lease period, the land, free from all encumbrances shall again vest or re-vest with the Government. As per the Estate Manual of MCGM, the lessee shall not change the use of the land without prior permission of MCGM. Such change of use may be allowed with the approval of the IC on payment of additional premium. If the lessee had unauthorisedly changed the use, MCGM may regularise the breach on payment of penalty along with additional premium chargeable. Under Section 105 B of MMC Act, MCGM had the power to evict the lessee by giving one month notice. Transfer of land is allowed either by surrender method or by

assignment method as provided in Part III (A)(d) of chapter-II of the Estate Manual of MCGM.

### **8.2.1 Non-resumption of land**

As per Section 105 B of the MMC Act, the lessee is required to be evicted in case of breach of condition(s). The Act does not provide for regularisation of the breaches. However, the Estate Manual provides for regularisation of breaches.

We noticed that in six cases<sup>1</sup>, lands were leased (41,716 sq m) to five textile and one Dal mill. These plots of land were granted primarily for purposes like industrial, residential, etc. As the mills had shut down their operations, these plots of lands could not be put to use for the intended purpose, hence should have been resumed. However, this was not done. Out of these six cases, in two cases the purposes were changed from residential to commercial and in one case it was changed from residential to industrial. The land continues to be in the possession of the lessees. The two lessees who have got the land use changed to commercial have gained financially.

MCGM should have terminated the lease agreements and resumed the land to the Government in all these six cases.

### **8.2.2 Non-utilisation of land and non-execution of lease agreements**

A plot admeasuring 3,480 sq m was leased (May 1982) for a period of 60 years with effect from 11 July 1986 to the Indian National Theatre for redevelopment of the existing municipal market by constructing a market on the ground floor and a drama theatre on the first floor. No lease agreement was executed by MCGM.

We noticed that although redevelopment work of market-cum-drama theatre building had not been completed even after a lapse of 26 years, MCGM did not resume the land. In two<sup>2</sup> more lease cases, no lease agreements were executed by MCGM even after a lapse of 72 and 46 years, respectively, from the date of lease.

### **8.2.3 Financial gain made by lessees**

(i) Land admeasuring 5,96,953 sq m was leased by the Government to MCGM for 99 years from May 1914 with a condition to revert the same in the Government on expiry of lease. MCGM was allowed to lease out the land for periods not exceeding 30 years at a time for horse racing, public recreation or amusement after obtaining prior sanction of the Government. Accordingly, this land along with an adjoining municipal land admeasuring 2,58,245 sq m was leased to Royal Western India Turf Club Ltd (RWITCL). The lease was last renewed in February 2000 for 19 years with retrospective effect from

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<sup>1</sup> Bansiwala Mills Pvt. Ltd., Haji Bilal Patrawala and ten others, M/s Morarjee Gokuldas Spg. & Wvg. Co. Ltd., The Phoenix Mills Ltd., Raghuvanshi Mills Ltd. and Shri Laxmi Woollen Mills Estate Pvt. Ltd..

<sup>2</sup> (1) Shri Gokul Das Pujari & six others and (2) Government of Maharashtra for Police accommodation.

1 June 1994 upto 31 May 2013 at a lease rent of ₹ 20 lakh per annum to be increased by 10 *per cent* every year. The basis on which the revised rent was fixed was not available on record. The lease agreement was made in April 2004 and did not permit third party to enter into the premises.

We noticed that, though the lease was due to expire on 31 May 2013, the lessee in violation of the terms of lease agreement, entered into an agreement (July 2008) with M/s BJR's (Conductor) to conduct catering services for 10 years upto June 2018, for which the Conductor would pay to the lessee conducting fees of ₹ 3.25 crore per annum fixed for first three years and thereafter with 10 *per cent* increase every year. The Improvements Department of MCGM issued (November 2008) notice to RWITCL for the breach of condition by allowing a third party to enter the leased premises without permission. It is pertinent to note that though the issue of regularisation of breach as per the Estate Manual was pending, the Health Department of MCGM continued granting licenses to M/s BJR's to carry out the business of eating house and liquor bar upto December 2012. This indicated absence of co-ordination between the Health Department and the Improvements Department of MCGM which had issued notice for breach. Further, though the MCGM was realising revenue of only ₹ 20 lakh per annum towards lease rent on the entire leased plot, the lessee continued to make financial gain of ₹ 3.25 crore per annum from the Conductor without passing on any share to MCGM. Though four years had elapsed after MCGM came to know of the breach, action in the matter is still pending.

(ii) Similarly, land admeasuring 1,278.69 sq m situated at Esplanade Estate, Fort Division, was leased (December 1903) for 99 years by the Bombay Improvement Trust to Robert Laidlaw of Kolkata, an European at an annual ground rent of ₹ 1,128 for the first 10 years, ₹ 1,340 for the next 10 years, ₹ 1,551 for subsequent 30 years and ₹ 1,763 for the remaining 49 years. The lease expired in 2002.

As per the lease, the plot was to be utilised for shops, offices and residential purposes. The land was transferred four times to different parties and in 1987 it was in the possession of M/s Stallion Investment Pvt. Ltd who had applied for transfer of lease in their name only in 1990. Thereupon, MCGM issued a notice (September 1991) to M/s Stallion Investment Pvt. Ltd for the unauthorised construction of mezzanine floors in violation of the lease agreement and directed to pay security deposit of ₹ 2,88,343 to rectify the breaches within a period of six months, failing which the security deposit was to be forfeited. The security deposit was paid by the lessee in February 1992. There was nothing on record to indicate that the land was regularised by MCGM and additional lease/ground rent has been demanded and recovered though 21 years have elapsed after the notice was served upon the lessee.

### **8.3 Encroachment**

#### **8.3.1 Breach of conditions and encroachment of Government land**

Land admeasuring 1,66,851.89 sq m was leased to Willingdon Sports Club from October 1922 for a period of 99 years at an annual ground rent of ₹ 13,469.

MCGM had issued notices to the lessee in January 1998 and April 2009 for 18 breaches noticed on the property. This included erecting permanent as well as temporary structures such as residences, gas cabins, godowns, etc.. Though more than 14 years had elapsed, final decision to resume the land as provided for in the MMC Act is still pending (November 2012). In addition, MCGM had noticed that part of the leased plot had been encroached by Akhade Brothers. The encroachers had constructed chawls /structures and put them to use for residential/commercial purposes. No effective steps were taken by MCGM/lessee to prevent or remove encroachers and part of leased land continued to be in the possession of encroachers (November 2012).

The matter was brought to the notice of MCGM. In reply, MCGM stated that the concerned ward office was intimated to institute action against breaches in September 2011. Further action taken in this regard was not made available to audit.

## **8.4 Lease rent**

### **8.4.1 Non-finalisation of the rate of lease rent**

Land admeasuring 5,797 sq m situated opposite CST Railway Station was leased to M/s Bennett, Coleman & Co. Ltd. by the erstwhile Bombay Improvement Trust for 99 years from 4 April 1901 at an annual ground rent of ₹ 15,166. As per the lease agreement, the land was to be used for steam printing, publishing newspapers, books or periodicals, residential purpose and a portion of the building for shops and offices. The said lease expired on 3 April 2000.

In September 1994, the Estate Department of MCGM noticed that the lessee breached the lease agreement by way of unauthorised construction of mezzanine floor and commenced several commercial activities without obtaining prior permission. The lessee applied (March 1999) for renewal of lease and MCGM fixed (March 2002) annual lease rent of ₹ 1.18 crore applying the rate applicable to industrial users at two *per cent* of the market value of land. However, renewal and execution of lease deed had not been finalised yet (November 2012).

On a Writ Petition filed by the lessee, the High Court passed (March 2003) order for ad-hoc payment of lease rent at ₹ 50 lakh per annum for four years from 1 April 2000 and directed MCGM to appoint an officer for deciding the appropriate amount of rent to be recovered after giving opportunity to the lessee to present their stand. Accordingly, the lessee paid an amount of ₹ two crore between May 2003 and December 2003. But even after lapse of more than nine years and reminder from the lessee in this regard MCGM failed to finalise the annual rent (November 2012). The abnormal delay of 18 years in regularisation of breach, delay in fixation of rent and renewal of lease deed resulted in huge loss of revenue to MCGM.

### **8.4.2 Non-recovery of arrears of lease rent**

Land admeasuring 1,338.29 sq m in Marine Lines Estate, Fort Division was initially leased (December 1901) by the erstwhile Bombay Improvement Trust

to Hormusji Sorabji Battliwalla for a period of 99 years for residential purposes at an annual ground rent of ₹ 1,226.68. The lease was subsequently transferred (April 1995) in the name of the Secretary of the United States of America. The lease period expired in December 2000 and MCGM fixed (April 2010) the rent at ₹ 8.45 lakh per annum which was to be increased by 10 *per cent* every 10 years. The lessee, however, did not pay the rent resulting in accumulation of arrears of ₹ 112.41 lakh for the period from 5 December 2000 to 4 December 2012.

MCGM stated (September 2012) that as a new lease policy is being finalised for levy of lease rent, the lease rent could not be recovered. However, the fact remained that the lease rent had not been recovered.



## **CHAPTER IX**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **9.1 Conclusions**

The performance Audit revealed the following:

There was lack of uniformity in the process adopted for allotment of land on lease due to the absence of a uniform policy. Different procedures were adopted by the Collectorates and other agencies for allotment of land on lease.

The data on leased land was not complete in the Collectorates. The Collectorates and the agencies had not developed any system for conducting periodical inspections of the land granted on lease. They were not monitoring the conditions governing the grant of lease. Though a number of lessees had indulged in serious violation of terms and conditions of lease, no decisive action had been taken. In addition, in some cases even the eligibility conditions for grant of land on lease had not been observed. In the Collectorates and MCGM, cases were found where the lease agreements had not been executed and registered.

The Collectorates and the Government in violation of the MLR Code, had in a number of cases, regularised violations of the conditions of the lease agreement by levy of unearned income.

Data on arrears of land revenue was not complete due to which effective action could not be taken. There was lack of co-ordination between Government departments and local bodies as sale/sub-lease of lease rights, clearance of development plans and building plans on leased land in violation of lease terms and conditions were noticed in the test checked cases.

#### **9.2 Recommendations**

The Government may consider:

- updation and maintenance of accurate data of leased land, execute the pending lease agreements and follow up of eviction of illegal encroachments through effective action;
- enactment of a law to enforce necessary conditions on subsisting leases in consultation with Law and Judiciary Department to safeguard leased property and land revenue;
- enacting suitable provisions for levy and recovery of unearned income and for ensuring that all lessees obtain prior permission for change of purpose/sub-lease/sale of the leased lands;
- evolving a clear policy on regularisation of encroachments which are administratively considered necessary;
- streamlining the procedure for maintaining data relating to arrears of land revenue for monitoring recovery;
- co-ordinating with the competent authorities concerned, in order to ensure that the transfer/sub-lease of leased land/clearance by Local

Bodies of the development plans, building plans, etc., are effected only after obtaining NOC from the R&FD;

- instructing the Collectorates to display on site the details of lease to ensure that the plot is not sold/transferred unauthorisedly. Further, the Department may ensure that adequate staff is in place for carrying out the inspection of all the leased lands at regular intervals for detection of breaches;
- reviving the Committee constituted for detecting breaches;
- directing the Collectorates to give wide publicity for grant of vacant lands on lease so as to make the process of allotment transparent;
- preparing a 'Model Lease Agreement' and incorporating the same in the Code/Rules;
- incorporating a "purpose fulfilment certificate" in the lease agreements and ensure its compliance through the Collectorates and agencies alongwith a system of regular monitoring and verification by the Government Department; and
- directing the Department to review cases wherein provisional rent and premium had been levied and take necessary action to levy final rates and recover the difference.



(MALA SINHA)

Principal Accountant General (Audit)-I,

Mumbai,  
The 16 May, 2013

Countersigned



(VINOD RAI)

Comptroller and Auditor General of India

New Delhi,  
The 17 May, 2013

**APPENDIX-I**  
**Glossary of definition**  
*(Reference: Paragraph 1.5)*

Term	Definition
Land	means that land situated in the State and does not include the land situated outside the State
Building	means any structure, not being a farm building
Alienated	means transferred in so far as the rights of the State Government to payment of rent or land revenue are concerned, wholly or partially, to the ownership of any person
Lease	a transfer of a right to enjoy such a property, made for a certain time, express or implied or in perpetuity, in consideration of a price paid or promised to the transferor by the transferee, who accepts the transfer on such terms
Lessor	the transferor of the property on lease
Lessee	the transferee of the property transferred on lease
Possession of land	it is not necessary as a owner, it may be as a tenant, trustee or mortgagee in possession
To occupy land	means to possess or to take possession of land
Superior holder	means a land-holder entitled to receive rent or land revenue from other land-holders (called "inferior holders") whether he is accountable or not for such rent or land revenue, or any part thereof, to the State Government
Holding	means a portion of land held by a holder
Rent	the money, share, service or other thing to be so rendered is called the rent
Non-agricultural assessment	means the assessment fixed on any land under the provisions of MLR Code or rules thereunder with reference to the use of the land for a non-agricultural purpose
Survey	it includes the measurement of village land and preparation of survey records based on it. Every holding is separately measured, classified, assessed and defined by boundary mark in the land records and a specific number known as survey no. is given
Survey number	means a portion of land of which the area and assessment are separately entered, under an indicative number in the land records
Revenue Officers	means every officer of any rank whatsoever appointed under any of the provisions of MLR Code, and employed in or about the business of the land revenue or of the surveys, assessment, accounts, or records connected therewith
Classes of persons holding land.	(a) Occupants - Class I, (b) Occupants - Class II, (c) Government lessees  As per Section 29 of the MLR Code, Occupants – class I shall consist of persons who hold unalienated land in perpetuity and without any restriction on the right to transfer; occupants – class II shall consist of persons who hold unalienated land in perpetuity subject to restrictions on the right of transfer; the grantee of lease under grant or contract by the Collector of unalienated unoccupied land is called a Government lessee

### APPENDIX-I (Continued)

Description	Definition
Land records	means records maintained under the provisions of, or for the purposes of, the MLR Code and includes all documents, plans, maps, registers, accounts and records
Corporation	means the Municipal Corporation of Greater Mumbai
City	‘the city’ means the area specified in part I of Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945
Suburbs	means the area specified in Parts II and III of Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945
Mumbai Metropolitan Region	means the area specified in Schedule I of MMRDA Act, 1974. The State Government may, from time to time, by notification in the Official Gazette, amend that Schedule by adding thereto or deleting therefrom any area specified in such notification; and thereupon the modified area shall be the Mumbai Metropolitan Region
Regional Plan	means a plan prepared under the provision of Maharashtra Regional and Town Planning Act, 1966, for the development or redevelopment of Mumbai Metropolitan Region as defined in this Act, or for any part thereof, and includes a draft or final regional plan prepared for the same region or any part thereof whether before or after the commencement of this Act which is for the time being in force
Registration or transfer not to affect right of Government	According to Section 301 of MLR Code, the registration or transfer to any title in the Collector’s records shall not be deemed to operate so as in any way to affect any right, title or interest of the Government in the land, house or other immovable property in respect of which any such transfer is made or registered
Old tenure	Term is used in office records means the title of land without any restriction for sale and transfer
New tenure	Term is used in office records for the title of land with restriction. This land cannot be sold/transferred unless its title is converted into old tenure
Occupancy	Means a portion of land held by an occupant. "Occupant" means a holder in actual possession of unalienated land

**APPENDIX -II**  
**Comparative statement of various aspects of lease of land by different authorities**  
*(Reference Paragraph 2.2)*

SR. NO	ITEM	GOVERNMENT	MMRDA	MHADA	MCGM
1	Purpose of lease	Residential, Industrial, Commercial, Social, Educational, Agricultural	Residential, Commercial	Residential, Commercial, Educational	Social, Industrial, Commercial, Residential, mixed
2	Identity of the lessee	Individuals, societies, firms, companies, trusts, social organisations etc.	Societies, Industries and commercial organisations	Individuals, societies, industries, trusts, social organisations etc.	Individuals, societies, industries, trusts, social organisations etc.
3	Standardized model lease document	Does not exist.	Exists	Does not exist Lease deed prepared by Legal Cell as per the conditions of the case	Does not exist Lease deed prepared by Legal Cell as per the conditions of the case
4	Lease periods involved	1 year to 999 years for the past and now proposed for 30 years	80 years except WTT where it is 99 years	30 years	30 to 999 years and 30 years with effect from October 1998 as per retrospective amendment of 2002
5	Maximum permissible FSI	1.33 in Mumbai City, 1 in Mumbai suburbs and up to 1 in Pune District	4	<b>2.5</b>	1.33
6	Method of allotment on lease	Allotment made on the basis of application received from individuals, co-operative societies, industries, Trusts, etc. (Allotment prescribed through advertisement to co-operative Housing Societies but not being followed)	Through public advertisements for auction and selection of the highest bidder	Under the orders of the Government as per Regulation 16	No specific method followed

**APPENDIX –II (Continued)**

<b>SR. NO</b>	<b>ITEM</b>	<b>GOVERNMENT</b>	<b>MMRDA</b>	<b>MHADA</b>	<b>MCGM</b>
7	Execution of lease agreement	After handing over possession of land	Prior to handing over possession of land	Prior to handing over possession of land	After handing over possession of land
8	Method of valuation of land	As per ASR prepared by Jt. Director of Town Planning, Pune	Minimum reserve price fixed on the basis of rate at which plot in the same locality was auctioned in the near past	As per ASR prepared by Jt. Director of Town Planning, Pune	As per ASR prepared by Jt. Director of Town Planning, Pune
9	Lease premium	No lease premium is levied	One time premium on the value of the plot at which it was auctioned	Fixed on the basis of resolutions issued from case to case	No lease premium is levied
10	Lease rent	Ranges from Re.1 to amounts based on prescribed percentages of market value.	Nominal lease rent.	Fixed on the basis of different resolutions issued from time to time and case to case. Lease rent for the entire lease period is taken one time as capitalized lease rent at the time of agreement or recovered annually as may be decided in the resolutions.	Ranges from Re.1 to amounts based on prescribed percentages of market value.
11	Periodical revision of lease rent	Not present in cases prior to 1999. Government has introduced clause of periodic revision of lease, which has been challenged in the court of law and hence pending implementation	Not applicable as one time lease premium	Provision exists, however period of 30 years not yet over	Not present in cases prior to 1999. Government has introduced clause of periodic revision of lease, which has been challenged in the court of law and hence pending implementation

**APPENDIX –II (Continued)**

<b>SR. NO</b>	<b>ITEM</b>	<b>GOVERNMENT</b>	<b>MMRDA</b>	<b>MHADA</b>	<b>MCGM</b>
12	Monitoring of leased properties	Carried out but not on regular basis.	System of monitoring till the construction work is completed.	No system in place for periodical monitoring.	System of monitoring on the basis of complaints received.
13	Penalties for breach of conditions	Ranges from issue of warnings to the lessee to resumption of land	Recovery of additional lease premium to resumption of land	Lands to be resumed as per conditions of lease agreement	Imposition of penalties.
14	Policy on eligibility	Exists	Exists	Exists	Government policy being followed
15	Is transfer, inheritance with or without conditions	With existing condition	With existing condition	With existing condition	With existing condition

**APPENDIX III**  
**Cases in which renewal is not done after expiry of lease**  
*(Reference : Paragraph 2.5.1)*

Sr. No.	Name of the Government lessee	Location	Purpose	Lease period	Date of lease	Date of expiry	Current date	No of years after expiry
1	2	3	4	5	6	7	8	9
<b>(A) MUMBAI CITY</b>								
1	RESERVE BANK OF INDIA	Colaba	Residential	99	01-12-1907	01-12-2006	30-11-2012	6
2	JEROM FERNANDES & 1 ORS	Colaba	Residential	50	18-04-1956	18-04-2006	30-11-2012	6
3	DR.FALI(FRAMROZ) S.MEHTA&DR.KERKI R.MEHTA(TRUSTEE)	Colaba	Residential	66	22-07-1940	22-07-2006	30-11-2012	6
4	BOMBAY GYMKHANA LIMITED	Fort	Residential	65	25-01-1941	25-01-2006	30-11-2012	6
5	THE KHATAN MAKANJI SPG & WVG CO LTD	Mazgaon	Residential	99	01-09-1906	01-09-2005	30-11-2012	7
6	ABUBKAR USMAN DARVESH & 2 OTHERS	Mazgaon	Residential	99	01-09-1906	01-09-2005	30-11-2012	7
7	AMINABAI MOHOMEDALLY MOHSINBHAI KADERBHAI	Byculla	Residential	50	01-10-1955	01-10-2005	30-11-2012	7
8	ABDUL KADAR GULAM HUSAIN DAYA	Byculla	Residential	50	01-07-1953	01-07-2003	30-11-2012	9
9	ABDUL SATAR MOHMED HAJI V AHEDIN & 6 ORS	Mazgaon	Residential	45	01-09-1958	01-09-2003	30-11-2012	9
10	ESMAIL EBRAHIM	Mazgaon	Residential	45	01-09-1958	01-09-2003	30-11-2012	9
11	ERACH SHAPURJI MISTRY & 4 OTHERS TRUSTEES	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
12	ARAVIND PROPERTIES LTD	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
13	H H SULTAN MOHAMMAD SHAH	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
14	THE BOMBAY MUNICIPAL CORPORATION	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10



**APPENDIX III (Continued)**

1	2	3	4	5	6	7	8	9
15	VICENTA MARIA SOCIAL SERVICE SOCIETY.	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
16	SULEBHAI ALIBHAI RANGWALA	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
17	IBRAHIM HUSAIN BHOMBAL & OTHERS	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
18	RAMESHCHANDRA G.KANSARA	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
19	M/S.HEMALI INVESTMENT & FINANCE PVT.LTD.	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
20	THAKIRDAS PANCHAND ZAVERI & ANOTHER	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
21	SYED ABDUL HAMID KADRI	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
22	SHAIKH CASSAM VALAD LAL MOHOMED HADIWALA	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
23	SHAIKH CASSAM VALAD LAL MOHOMED HADIWALA	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
24	THE BOMBAY DIOSISAN TRUST ASOSIATION PVT LTD	Mazgaon	Residential	89	01-02-1913	01-02-2002	30-11-2012	10
25	HAFIZA BEGUM W/O SYED ABDUL HAMID KADRI	Mazgaon	Residential	99	01-09-1903	01-09-2002	30-11-2012	10
26	THE MERCANTILE BANK OF INDIA PVT LTD	Malabar Hills	Residential	50	04-04-1952	04-04-2002	30-11-2012	10
27	GULAM MOHAMMAD NABIBUX	Byculla	Residential	50	29-04-1950	29-04-2000	30-11-2012	12
28	MR.SURESH R.CHAVAN & OTHERS	Byculla	Residential	50	01-09-1949	01-09-1999	30-11-2012	13
29	MAKHMUDULLA KHAN ALIAS HUSEINLALA KARAMDADKHAN	Byculla	Residential	50	03-05-1949	03-05-1999	30-11-2012	13
30	SAYYAD MAHOMAD BAKAR	Byculla	Residential	50	01-09-1949	01-09-1999	30-11-2012	13
31	SHAMSUDDIN NOMANBHAI	Byculla	Residential	50	05-05-1949	05-05-1999	30-11-2012	13

**APPENDIX III (Continued)**

1	2	3	4	5	6	7	8	9
32	BOMBAY MUNICIPAL CORPORATION BOMBAY CITY	Colaba	Residential	50	18-06-1948	18-06-1998	30-11-2012	14
33	ABDUL HAMID MOHMED HASSAN SHAIK AHMED MUCKBA	Mandvi	Residential	50	01-05-1947	01-05-1997	30-11-2012	15
34	RAGHUNATH VITHHAL KOTHMIRE & 2 OTHERS	Girgaon	Residential	50	22-11-1945	22-11-1995	30-11-2012	17
35	THE SAT TAD KADIM MOSQUE TRUST	Mandvi	Residential	50	01-05-1944	01-05-1994	30-11-2012	18
36	M/S.SUMER ASSOCIATES.	Mazgaon	Residential	99	20-12-1894	20-12-1993	30-11-2012	19
37	THE CHURCH OF SCOTLAND TRUST	Fort	Residential	99	14-06-1894	01-06-1993	30-11-2012	19
38	WALLACE FLOOR MILLS COMPANY LTD	Mazgaon	Residential	99	01-10-1893	01-10-1992	30-11-2012	20
39	SHEVCHANDRA ROY PODDAR	Colaba	Residential	21	01-12-1970	01-12-1991	30-11-2012	21
40	RUSTOM DANIR IRANI	Byculla	Residential	50	01-05-1941	01-05-1991	30-11-2012	21
41	ISAAC NEYYARAPALLY THOMAS	Fort	Residential	55	26-06-1933	26-06-1988	30-11-2012	24
42	MOHAMED HANIF ISMAIL	Fort	Residential	53	01-03-1935	01-03-1988	30-11-2012	24
43	RATANSI MULJI & TWO OTHERS	Fort	Residential	52	01-10-1936	01-10-1988	30-11-2012	24
44	THE MAHARASHTRA STATE BHARAT SCOUTS & GUIDES	Mahim	Residential	10	26-08-1978	26-08-1988	30-11-2012	24
45	M/S.PRITHVI COTTON MILLS LTD	Malabar Hills	Residential	99	10-01-1887	10-01-1986	30-11-2012	26
46	BOMBAY MUNICIPAL CORPORATION	Colaba	Residential	6	13-06-1980	13-06-1986	30-11-2012	26
47	KHUSHALDAS YALLABHADAS & ONE OTHERS	Lower Parel	Residential	33	31-12-1952	31-12-1985	30-11-2012	27
48	MEHERJIBHOY PALLONJI MISTRY & 5 OTHERS	Colaba	Residential	30	15-04-1955	15-04-1985	30-11-2012	27
49	NEW RIDGE APARTMENT CO-OP HSG SOC LTD	Malabar Hills	Residential	50	01-12-1932	01-12-1982	30-11-2012	30

**APPENDIX III (Continued)**

1	2	3	4	5	6	7	8	9
50	CAWASSHAW SORABJI PAUWALA & 3 OTHERS	Malabar Hills	Residential	50	01-12-1932	01-12-1982	30-11-2012	30
51	HABIB JANMOHMED & ANOTHER	Mazgaon	Residential	45	14-11-1937	14-11-1982	30-11-2012	30
52	MORESHWAR ANANTRAO MHATRE & 1 OTHERS	Mazgaon	Residential	45	14-11-1937	14-11-1982	30-11-2012	30
53	PRABHAKAR RAMCHANDRA MHATRE & 4 OTHERS	Mazgaon	Residential	45	14-11-1937	14-11-1982	30-11-2012	30
54	KANTA LAKHUMAL HIRANANDANI & 4 OTHERS	Malabar Hills	Residential	25	01-10-1957	01-10-1982	30-11-2012	30
55	PAVLOVA CO-OPERATIVE HOUSING SOCIETY LIMITED	Malabar Hills	Residential	25	01-10-1957	01-10-1982	30-11-2012	30
56	STERLING INVESTMENT CORPORATION PRIVATE LIMITED	Malabar Hills	Residential	25	01-10-1957	01-10-1982	30-11-2012	30
57	MUNICIPAL CORPORATION OF GREATER BOMBAY	Byculla	Residential	50	01-05-1931	01-05-1981	30-11-2012	31
58	NARIMAN DOSSABHAI UMRIGAR	Byculla	Residential	50	01-05-1930	01-05-1980	30-11-2012	32
59	FATMABAI SAYED ABDUL KADAR.	Mazgaon	Residential	99	01-01-1880	01-01-1979	30-11-2012	33
60	GREATER BOMBAY POLICE CLUB	Fort	Residential	15	04-04-1963	04-04-1978	30-11-2012	34
61	MALIK LIYAQAT HUSAIN GULAM NABI	Byculla	Residential	50	01-05-1927	01-05-1977	30-11-2012	35
62	REV. MANUAL XAVIER GOMES ROSE & FIVE TRUSTEES	Mazgaon	Residential	99	01-08-1873	01-08-1972	30-11-2012	40
63	SHIVDAS CHAPSI & SIX ORS	Mazgaon	Residential	99	01-01-1873	01-01-1972	30-11-2012	40
64	MULJI ALIAS SHANKAR CHAPSI & OTHERS.	Mazgaon	Residential	99	01-01-1873	01-01-1972	30-11-2012	40
65	BAI LADAKABAI W/O NANAJI HARIRAM.	Mazgaon	Residential	99	01-01-1873	01-01-1972	30-11-2012	40
66	SHETH RANCHODDAS VALLABHDAS & ANOTHER	Mazgaon	Residential	99	01-01-1873	01-01-1972	30-11-2012	40
67	K S THAKKAR & 4 OTHERS	Mazgaon	Residential	99	01-01-1873	01-01-1972	30-11-2012	40

**APPENDIX III (Continued)**

1	2	3	4	5	6	7	8	9
68	KASAMALI K.PORBANDRAWALA AND 7 OTHERS	Mazgaon	Residential	99	01-08-1873	01-08-1972	30-11-2012	40
69	MARGARET RUBY AND OTHERS	Mazgaon	Residential	99	01-01-1873	01-01-1972	30-11-2012	40
70	DINANATH RAMRAO JAIKAR & 4 ORS	Matunga	Residential	21	01-05-1950	01-05-1971	30-11-2012	41
71	THE BOMBAY DIOSISAN TRUST ASSOCIATION LTD	Colaba	Residential	30	24-06-1932	24-06-1962	30-11-2012	50
72	STERLING INVESTMENT CORP.PVT.LTD.	Colaba	Residential	21	06-08-1938	06-08-1959	30-11-2012	53
73	MULAJI HARIDAS	Colaba	Residential	50	01-05-1904	01-05-1954	30-11-2012	58
74	BAI FATMABAI W/O HAJIALI MOHOMED HAJI KASAM	Girgaon	Residential	50	01-05-1897	01-05-1947	30-11-2012	65
75	MOHANLAL N MEHTA & FOUR OTHERS TRUSTEES	Girgaon	Commercial	60	24-10-1939	24-10-1999	30-11-2012	13
76	INDIAN OIL CORPORATION	Byculla	Commercial	30	15-02-1933	15-02-1963	30-11-2012	49
77	THE COLABA RAJAK CONSUMERS CO OP SOC	Colaba	Commercial	5	19-11-1957	19-11-1962	30-11-2012	50
78	RICHARDSON & CRUDDAS LTD.	Byculla	Industrial	99	01-09-1903	01-09-2002	30-11-2012	10
79	RICHARDSON & CRUDDAS LTD.	Byculla	Industrial	99	01-09-1903	01-09-2002	30-11-2012	10
80	RICHARDSON & CRUDDAS LTD.	Byculla	Industrial	99	12-08-1893	12-08-1992	30-11-2012	20
81	M/S HINDUSTAN PETROLEUM CORPORATION LTD.	Fort	Industrial	21	01-01-1965	01-01-1986	30-11-2012	26
82	SHREE SHAKTI MILLS LTD	Lower Parel	Industrial	50	01-11-1935	01-11-1985	30-11-2012	27
83	THE NATIONAL RAYON CORPORATION OF INDIA	Lower Parel	Industrial	21	28-07-1964	28-07-1985	30-11-2012	27
84	THE SIMPLEX MILLS CO LTD	Byculla	Industrial	99	22-04-1884	22-04-1983	30-11-2012	29
85	RICHARDSON & CRUDDAS LTD.	Byculla	Industrial	99	28-03-1875	28-03-1974	30-11-2012	38
86	M/S BOMBAY CHEMICALS LTD	Mazgaon	Industrial	99	01-01-1873	01-01-1972	30-11-2012	40

**APPENDIX III (Continued)**

1	2	3	4	5	6	7	8	9
87	THE BOMBAY DIOSISAN TRUST ASSOCIATION PVT LTD	Mazgaon	Others	99	07-01-1907	07-01-2006	30-11-2012	6
88	SHAPURJI PALLANJI MISTRY & 6 ORS TRUSTEES	Mazgaon	Others	99	01-09-1903	01-09-2002	30-11-2012	10
89	MRS REGINA ALBINA ROCHA PINTO	Mazgaon	Others	99	01-09-1903	01-09-2002	30-11-2012	10
90	TRUSTEES OF THE MERWANJI FRAMJI CHARITABLE FUND	Mazgaon	Others	99	01-09-1903	01-09-2002	30-11-2012	10
91	THE PARSI GYMKHANA	Bhuleshwar	Others	30	01-01-1970	01-01-2000	30-11-2012	12
92	THE ISLAM GYMKHANA	Bhuleshwar	Others	30	01-01-1970	01-01-2000	30-11-2012	12
93	THE WILSON COLLEGE GYMKHANA	Bhuleshwar	Others	30	01-01-1970	01-01-2000	30-11-2012	12
94	THE WOODHOUSE GYMKHANA	Fort	Others	60	01-01-1939	01-01-1999	30-11-2012	13
95	TYEBAILY MAHOMEDALI	Byculla	Others	50	01-05-1948	01-05-1998	30-11-2012	14
96	THE HINDU GYMKHANA	Bhuleshwar	Others	30	01-01-1970	01-01-2000	30-11-2012	12
97	THE CATHOLIC GYMKHANA LTD	Bhuleshwar	Others	30	06-01-1947	06-01-1977	30-11-2012	35
<b>(B) MUMBAI SUBURBAN DISTRICT</b>								
1	SHRI MADHUSUDAN UPADHYAY	Bandra	Residential	30	09-11-1967	09-11-1997	30-11-2012	15
2	SHRI. J.A.BAIRO	Bandra	Residential	30	04-12-1961	04-12-1991	30-11-2012	21
3	SHRI. CHUNNILAL DHARAMDAS GANDHI, SHRI. M.M.GANDHI	Bandra	Residential	30	01-01-1951	01-01-1981	30-11-2012	31
4	M/S SIKING PREMISES CO-OPERATIVE HOUSING SOCIETY LTD	Bandra	Residential	30	01-01-1951	01-01-1981	30-11-2012	31

**APPENDIX III (Continued)**

1	2	3	4	5	6	7	8	9
5	SMT. MERRY SIBIL PARERA (BANDSTAND CO-OPERATIVE HOUSING SOCIETY)	Bandra	Residential	30	01-01-1951	01-01-1981	30-11-2012	31
6	SMT. GAURI KHAN AND SHAHRUKH KHAN (SHRI. NARIMAN K.DUBHASH)	Bandra	Residential	30	01-01-1951	01-01-1981	30-11-2012	31
7	SEEMA APARTMENT SMT. ZOHRA S. NAYANI	Bandra	Residential	30	01-01-1951	01-01-1981	30-11-2012	31
8	SHRI HAJI HABIB HAJIKARIM	Bandra	Residential	30	01-01-1951	01-01-1981	30-11-2012	31
9	SMT GRESI MARTHA LOPIS	Bandra	Residential	30	01-01-1951	01-01-1981	30-11-2012	31
10	ARCH BISHOP OF BOMBAY	Bandra	Residential	30	01-01-1951	01-01-1981	30-11-2012	31
11	M/S RAJESH CONSTRUCTIONS	Bandra	Residential	30	01-01-1951	01-01-1981	30-11-2012	31
12	SHRI SIMALNATH	Danda	Residential	7	08-01-1958	08-01-1978	30-11-2012	34
13	KURLA SCRAP MERCHANT ASSOCIATION	Mandala	Commercial	30	16-09-1976	16-09-2006	30-11-2012	6
14	MAHARASHTRA CHAMBER OF COMMERCE	Parighkhar	Commercial	30	17-11-1976	17-11-2006	30-11-2012	6
15	M/S KANAJI MANAJI AND COMPANY	Kurla Kirol	Commercial	15	17-01-1989	17-01-2004	30-11-2012	8
16	MULTI USE GOODS SHOP CO-OPERATIVE SOCIETY	Juhu	Commercial	30	12-07-1972	12-07-2002	30-11-2012	10
17	ENCROACHMENT OF SINDHI SHOP VENDORS	Wadavli	Commercial	50	1948	01-01-1998	30-11-2012	14
18	GONAN DANKARLI AND COMPANY	Vileparle	Commercial	30	15-05-1967	15-05-1997	30-11-2012	15
19	M/S JUHU BEACH RESORT PVT LTD	Juhu	Commercial	50	25-03-1942	25-03-1992	30-11-2012	20
20	HOTEL CORPORATION OF INDIA	Juhu	Commercial	50	01-08-1951	01-08-1991	30-11-2012	21
21	M/S RAHEJA REALTY SERVICES PVT. LTD	Juhu	Commercial	30	09-06-1942	09-06-1972	30-11-2012	40
22	M/S SUN AND SAND HOTEL	Juhu	Commercial	2	30-11-1968	30-11-1970	30-11-2012	42

**APPENDIX III (Continued)**

1	2	3	4	5	6	7	8	9
23	NATIONAL SOCIETY FOR CLEAN CITIES	Bandra	Social	20	03-11-1975	03-11-2005	30-11-2012	7
24	M.N.SINGH	Darivali	Social	10	24/3/1994	24-03-2004	30-11-2012	8
25	POST AND TELEGRAPH DEPARTMENT	Danda	Social	30	09-01-1968	09-01-1998	30-11-2012	14
26	JUHUTARA KOLI SAMAJ	Juhu	Social	30	14-04-1952	14-04-1982	30-11-2012	30
27	SPASTIC SOCIETY OF INDIA	Bandra	Educational	30	15-01-1981	15-01-2011	30-11-2012	1
28	SAMAJONNATI EDUCATION INSTITUTE	Boriwali	Educational	15	02-02-1995	02-02-2010	30-11-2012	2
29	JANTA SEWA MANDAL	Chembur	Educational	30	08-06-1979	08-06-2009	30-11-2012	3
30	NATIONAL INSTITUTE OF MUTE AND DEAF	Bandra	Educational	30	19/12/1978	19-12-2008	30-11-2012	4
31	GYAN KENDRA	Ambivali	Educational	15	31-07-1990	31-07-2005	30-11-2012	7
32	UTTAR BHARATIYA SANGH	Bandra	Educational	15	12-11-1981	12-11-1996	30-11-2012	16
33	JANTA SEWA MANDAL	Chembur	Educational	15	16-06-1977	16-06-1992	30-11-2012	20
34	HINDUSTAN PETROLEUM CORPORATION	Mahul	Others	5	01-06-2006	01-06-2011	30-11-2012	1
35	MAHARASHTRA STATE LAWN TENNIS ASSOCIATION	Chembur	Others	15	01-01-1986	01-01-2001	30-11-2012	11
36	M/S PARAMOUNT HOTEL PVT. LTD	Akse	Others	3	15-07-1995	01-07-1998	30-11-2012	14
37	M/S KANDY FILTERS INDIA LTD	Kandivli	Others	5	11-08-1987	11-08-1992	30-11-2012	20
<b>(C) PUNE DISTRICT</b>								
1	NANABHAU DEOGI NAIKWADI	Khed	Residential	50	11-02-1920	11-02-1970	30-11-2012	42
2	NANABHAU DEOGI NAIKWADI	Khed	Residential	50	11-02-1920	11-02-1970	30-11-2012	42
3	SAMBHAJI NANABHAU NAIKWADI	Khed	Residential	50	11-02-1920	11-02-1970	30-11-2012	42

**APPENDIX III (Continued)**

1	2	3	4	5	6	7	8	9
4	GOLF CLUB S.NO.257, YERWADA, PUNE	Pune City	Commercial	30	29-11-1977	29-11-2007	30-11-2012	5
5	CHAIRMAN SHRI CHATRAPATI SHIKSHAN SANSTHA BHAVANINAGAR	Indapur	Educational	15	19-12-1996	19-12-2011	30-11-2012	1
6	SANEGURUJI EDUCATION SANSTHA, URALEDEVI	Haveli	Educational	15	09-06-1994	09-06-2009	30-11-2012	3
7	ADHYAKSH PUNE ZILLA SHIKSHAN MANDAL , PUNE, MAUJE, PANDESHWAR	Purandare	Educational	15	10-01-1993	10-01-2008	30-11-2012	4
8	RAYYAT SHIKSHAN SANSTHA PARGAON , TAL DAUND, PUNE	Dound	Educational	15	13-10-1992	13-10-2007	30-11-2012	5
9	ALL INDIA SHIVAJI MEMORIAL SOCIETY BORIBHADAK , TAL DAUND , PUNE	Dound	Educational	15	27-05-1991	27-05-2006	30-11-2012	6
10	SUHAD MANDAL PUNE 805 SCRUTI BHANDARKAR PATH SHIVAJINAGAR, DHAYARI, PUNE-5	Haveli	Educational	15	20-10-1994	20-10-2004	30-11-2012	8
11	BALMOHAN VIDHYA MANDIR TRUST, TALEGAON	Mawal	Educational	30	09-02-1972	09-02-2002	30-11-2012	10
12	PUNE DISTRICT EDUCATION MANDAL PUNE MOUZE KARMOLI, TQ. MULSHI, PUNE	Mulshi	Educational	15	18-11-1986	18-11-2001	30-11-2012	11
13	BALMOHAN VIDHYA MANDIR TRUST, TALEGAON	Mawal	Educational	15	17-10-1974	17-10-1989	30-11-2012	23
14	BALMOHAN VIDHYA MANDIR TRUST, TALEGAON	Mawal	Educational	15	09-02-1972	09-02-1987	30-11-2012	25
15	SHIVAJI SHIKSHAN PRASARK MANDAL, BAWADA	Indapur	Educational	15	02-05-1969	02-05-1984	30-11-2012	28
16	SANT MUKTI BAI VIDYALYA, SHELGAON TARFE	Indapur	Educational	15	02-05-1969	02-05-1984	30-11-2012	28
17	BALMOHAN VIDHYA MANDIR TRUST, TALEGAON	Mawal	Educational	15	14-10-1967	14-10-1983	30-11-2012	29
18	MAHARASHTRA STATE MILK SAHAKARI SANGH LTD. KATRAJ, PUNE	Haveli	Social	10	01-01-1969	01-01-1979	30-11-2012	33
19	SMT. SWATI VINAYAK NIMHAN, ZUNG BANGLOW, SWARWADI, PUNE	Haveli	Others	10	27-08-1993	27-08-2003	30-11-2012	9



**APPENDIX III (Continued)**

1	2	3	4	5	6	7	8	9
<b>(D) MUNICIPAL CORPORATION OF GREATER MUMBAI</b>								
1	WESTERN RAILWAY	Marine Lines	Residential	93	01-06-1915	31-05-2008	30-11-2012	4
2	N.L. MEHTA GENERAL POWER OF ATTORNEY	Fort	Residential	99	11-11-1904	10-11-2003	30-11-2012	9
3	GRACY THOMAS & OTHER	Chawpatty	Commercial	99	13-03-1913	12-03-2012	30-11-2012	1
4	GULABSINGH GOCULDAS	Chawpatty	Commercial	99	20-04-1910	19-04-2009	30-11-2012	3
5	M/S. F.M. CHINYOY & PVT. LTD.	Chawpatty	Commercial	93	15-02-1916	14-02-2009	30-11-2012	3
6	ARDESHIR EDUJI SERVAI & ANR.	Fort	Commercial	99	21-12-1909	20-12-2008	30-11-2012	4
7	THE PEOPLE EDUCATION SOCIETY	Fort	Commercial	99	21-12-1907	20-12-2006	30-11-2012	6
8	M/S.FORBES, CAMPBELL & CO. LTD.,	Fort	Commercial	99	25-09-1907	24-09-2006	30-11-2012	6
9	GOOLBAI W/O JEHANGIR PALLONJI KAVARANA	Colaba	Commercial	99	06-08-1902	05-08-2001	30-11-2012	11
10	DEUTSCHE BANK (AG)	Fort	Commercial	99	24-04-1902	23-04-2001	30-11-2012	11
11	THE ORIENTAL FIRE AND GENERAL INSURANCE CO.LTD.,	Colaba	Commercial	99	05-12-1901	04-12-2000	30-11-2012	12
12	ELLEN KEKI MODI & OTHERS PARTNERS OF THE FIRM OF M/S.EMPIRE ESTATES	Fort	Commercial	99	13-12-1901	12-12-2000	30-11-2012	12
13	BENNETT COLEMAN & CO. LTD.	Fort	Commercial	99	04-04-1901	03-04-2000	30-11-2012	12
14	TAJ BUILDING CONDOMINIUM OF INDIA	Fort	Commercial	99	05-12-1901	04-12-2000	30-11-2012	12
15	THE AGENT CHARTERED BANK OF INDIA AUSTRALIA & CHINA	Fort	Commercial	99	04-01-1897	03-01-1996	30-11-2012	16
16	SHRI LAXMI WOOLLEN MILLS ESTATE PVT. LTD.	Mahalaxmi	Industrial	30	04-03-1982	03-03-2012	30-11-2012	1
17	THE WESTLEYAN METHODIST MISSIONARY TRUSTASSOCIATION	Colaba	Other	99	01-09-1909	31-08-2008	30-11-2012	4

**APPENDIX IV**  
**Details of cases in which unearned income levied by the Collector,**  
**Mumbai City**

*(Reference: Paragraph 2.5.2)*

Sr. No.	Name of lessee, CS No. and location	Area in sq m	Amount (₹ in lakh)	Date of issue of demand by the department
1	Raghunath Narayan & others, 302 & 303, Mazgaon	485.83	59.03	21-5-2012
2	Bhanushali Brothers Pvt. Ltd., 3/207 & 4/207, Salt Pan	5,400.09	189.88	29-9-2007
3	Dwarkadas Govardhandas; 396 (CTS), 1/396, Mazgaon	4,893.66	1,318.20	2-1-2010
4	Maharashtra Rajya Sahakari Sakhar Karkhana Sangh Ltd (MRSSKSL), 1971, Fort	2,440.57	150.65	27-5-1997
5	Shree Laxmi Woolen Mill Pvt. Ltd., 66, Lower Parel subleased to Khushaldas Vallabhdas and Lanchand Khushaldas	4,579.47	1,559.31	19-10-2010
6	Raghunath Narayan & Others, 448, Mazgaon	1,339.47	222.01	21-1-2012
7	Isaac Neyyar Pally, 1140; Pt.110, Fort	204.01	129.75	27-2-2012
<b>Total</b>			<b>3,628.83</b>	

**APPENDIX V**  
**Details of cases in which unearned income was not computed**  
**by the Department for recovery**

*(Reference: Paragraph 2.5.2)*

(₹ in lakh)

Sr. No.	Name of lessee, CS No. and location	Area in sq m	Date of transfer/ sale/ assignment	Amount (₹)
1	Mafatlal Industries Ltd., 592 and 593, Mazgaon	59,201.50 & 11,150.60	17-6-2011	30,290.00
2	Sultan Mahammad Shah Agakhan & Others, 362, Mazgaon.	3,769.91	20-6-1981	85.20
3	Shree Hashim Premji, 31 and Colaba	2,589.39	15-1-1982	1.98
<b>Total</b>				<b>30,377.18</b>

**APPENDIX-VI**  
**Recovery of unearned income/premium**  
*(Reference: Paragraph 2.5.2)*

(₹ in crore)

Sr. no.	Para No.	Name of the lessee	Unearned income/ premium (₹)
		<b>MUMBAI CITY</b>	
1.	3.3.4	MTDC	1.42
2.	3.5.1	Sportsfield Co-operative Housing Society	0.03
		<b>Total (a):</b>	<b>1.45</b>
		<b>MUMBAI SUBURBAN DISTRICT</b>	
1	4.2.6	M/s Ganon Dunkerly and Co. Ltd.	0.53
2	4.2.14	M/s Jolly Brothers	199.14
3	4.2.15	M/s Sahani Kirkood Pvt. Ltd.	0.62
4	4.4.1	Maharashtra Theatre	0.48
5	4.4.2	Held by individual	0.78
6	4.4.2	Held by individual	1.57
7	4.4.2	Held by individual	0.32
		<b>Total (b)</b>	<b>203.44</b>
		<b>Grand Total (a)+(b)</b>	<b>204.89</b>

**ABSTRACT**

		No. of cases	Amount (₹ in crore)
Appendix-IV	Mumbai City	7	36.28
Appendix-V	Mumbai City	3	303.77
Appendix-VI	Mumbai City	2	1.45
	<b>Total (c)</b>	<b>12</b>	<b>341.50</b>
Appendix-VI	Mumbai Suburban	7	203.44
	<b>Total (d)</b>	<b>7</b>	<b>203.44</b>
	<b>Grand Total (c)+(d)</b>	<b>19</b>	<b>544.94</b>

**APPENDIX VII**  
**List of GR's, Circulars and Memoranda wherein reference to the codal provisions were not made**  
*(Reference: Paragraph 2.5.3)*

Sr. No.	Particulars	No. and Date of publication	Subject
1	2	3	4
1	Government Resolution	LND 1067/122964-AI No. 5723/51 dated 1 October 1954	Fixation of rent of leased land at market value
2	Government Resolution	LND 4857/169146-AI, Sachivalaya, Bombay, 21 November 1957	Building Plots- (i) Permission for sale of land on lease (2) Breaches of conditions and (3) Extension of period for construction of building(s).
3	Government Resolution	LND 1067/122964-AI dated 3 November 1969	Fixation of rent of leased land at market value
4	Circular	LRF 1069/ 182496-B dated 20 December 1969	Submission of proposals of grant of land for Educational, Charitable or public purposes, revenue free on concessional terms to Institutions/ Local Authorities
5	Circular	LND-1077/ 3507/ CR-263/ G-5 dated 16 May 1978	Charging of interest in cases where advance possession of the land is given and lease rent in cases where land is granted on lease basis.
6	Circular	NO.LRF-1083/71134/CR-3478/ G-6, Mantralaya, Bombay, dated 8 February 1983	Government Lands: Revenue Free / Concessional grants of land for education and other purposes policy regarding thereto.
7	Government Resolution	No.LCS-1083/1882/CR-222/G-4 dated 12 May 1983	Policy for allotment of land to the Co-operative Housing Society.
8	Government Resolution	LRF 1083/ 1496/ CR-3700/ G-6 dated 11 May 1984	Grant of Government land at concessional rates for the promotion of Educational, Charitable or public purposes.
9	Government Resolution	LBS-1086/ 2644/ Pr. Kr. 196/ G-8 dated 14 June 1988	Levy of additional rent for change in use of premises in buildings of hospitals, schools, colleges, Co-op. Hsg. Soc. for other profitable purpose than that originally granted
10	Circular	LND 1088/ 222336/ 2162/ G-9 dated 23 January 1989	Inclusion of terms and conditions in lease allotment orders for all lease cases- Revision of rent every ten years
11	Circular	LND-1090/Pr.Kr.94-J-1, Mantralaya, Mumbai dated 22 May 1990	Action to be taken by the Collector in case of any breach in the allotment of land on lease/ occupancy price.
12	Government Resolution	LND 1092/ Pr. Kr. 84/ J-1 dated 30th June 1992	Annual lease rent to be levied from date of possession of land at revised rates
13	Government Resolution	LRF 1092/ Pr. Kr. 85/ J-1 dated 20 July 1992	Grant of Government land to charitable organisations/ private institutions/ trusts etc. revenue free/ concessional rates for the construction of hospitals.
14	Circular	No.LND 1096/341/P.Kr.4/96/AI Mantralaya, Mumbai. Dated 22 February 1996	Allotment of land on occupancy price/lease-maintenance of register relating to allotment of land and action to be taken in case of breach.

1	2	3	4
15	Government Resolution	No.LCS 1095/Pr.Kr.37/95/J-1, Mantralaya, Mumbai., dated 9 July 1999	Policy regarding allotment of Government land to Co-operative Housing Society.
16	Government Resolution	No.LND 1085/134222/Pr.Kr.184 / J-2, Mantralaya, Mumbai dated 5 October 1999	Renewal of Lease on expiry in Mumbai City and Mumbai Suburban District.
17	Government Resolution	LBR 252000/ 175756/ M-963/ J-2 dated 23 November 2001	Sale/ Transfer of premises in buildings standing over land sanctioned by the Government for industrial/ commercial purpose i.e. Transfer/ License fee, penalty for unauthorized change in use/ sale/ breach of conditions, Unearned income for vacant land
18	Government Resolution	LBL 1002/ Pr. Kr. 154/ J-2 dated 24 August 2004	Transfer/ License fee leviable for sale/ transfer/ sub letting on rental basis of flats/ premises for industrial/ commercial use in buildings on Government land sanctioned for Industrial, Commercial and Residential purpose
19	Circular	No.Misc.1004/Pr.Kr.336/J-2 R&F department, Mantralaya, Mumbai, dated 6 January 2005	Permission for redevelopment of leased land.
20	Government Resolution	LND 10/ 2002/ Pr. Kr. 387/ J-1 dated 29th May 2006	Implementing the revised policy of valuation on the basis of ready reckoner in all cases where Government land is leased/ ownership transferred or where valuation of land is involved
21	Circular	LBS 2502/ 115050/ Pr. Kr. 142/ J-2 dated 4 August 2006	Levy of License fee on Gymkhana/ Sports organisations for renting Hall/ Open space for marriage/ reception functions/ shows etc.
22	Government Circular	No.Misc.-05/2006/Pr.Kr. 43/ J-1 R&FD Department, Mantralaya, Mumbai dated 31 October 2006	Registration of lease land /occupancy price while renewal or granting permission for renewal under Bombay Stamps Act 1958
23	Government circular	No.Land-01/2007/Pr.Kr.4/J-1 Mantralaya, Mumbai, dated 22 February 2007	Change of use with the prior permission of the Collector
24	Circular	LND 2007/ 184/ Pr. Kr. 151/ J-2 dated 11 June 2007	Grant of 'No Objection Certificate' for redevelopment of Government land by the Collector office should not be done without prior permission of Government
25	Government Resolution	LBR 2586/ Pr. Kr. 266/ J-2 dated 7 September 2007	Policy regarding permission for use of Government land building premises for profitable purposes by levying additional ground rent/ license fee
26	Circular	LND 11/ 2007/ Pr. Kr. 98/ J-1 dated 31 December 2007	Implementing the revised policy of valuation on the basis of ready reckoner in all cases where Government land is leased/ ownership transferred or where valuation of land is involved
27	Memoranda on case to case basis	—	Levy of redevelopment charge / transfer charge

**APPENDIX-VIII**  
**Recommendations of the Public Accounts Committee (PAC) on**  
**paragraphs featured in the Audit Reports**  
*(Reference: Paragraph 2.7.1.1)*

Sr No.	Reference to Audit Report/ paragraph	Department	Subject	Report No. and Year of PAC meeting and their recommendations	Action Taken Notes
1	1997-98 Paragraph No. 3.10	R & FD	Loss of revenue due to non-registration of property	<b>5<sup>th</sup> Report 2006-07:</b> Enquiry must be made to ascertain whether the land allotted from 1947 till date to various individuals/organisations are being used for the purpose for which they were originally allotted, if not, the Revenue Department must undertake a drive to find out the cases where the original purpose of the land allotted has changed and recover penalty from the concerned persons. This drive must be conducted on a war footing and the action taken in this regard must be submitted to the committee within three months. (Sr. No. 2.46 of the PAC Report)	Not received
2	1998-99 Paragraph No. 4.2.7	-do-	Loss due to failure to evict encroachments and non-levy of <b>occupancy price</b>	<b>6<sup>th</sup> Report 2007-08.</b> A review of the land which is allotted / leased should be taken by the Collector every three months and how much land is in possession of the Government, its present status, how much land is given on rent and to whom, how much land is under encroachment, etc., and issue instruction to all the Collectors to submit their Report to the Government. (Sr. No. 3.96 of the PAC Report)	Not received
3	1998-99 Paragraph No. 4.2.10	-do-	Non-recovery of penal occupancy price/penal lease rent	<b>6<sup>th</sup> Report 2007-08.</b> The Committee has clearly recommended that as per Government's circular dated 4 <sup>th</sup> March 1996, the implementation of detailed suggestions should be done and to find out illegal encroachments and evict them and curb the tendency of encroachment. (Sr. No. 5.39 of the PAC Report)  It was necessary that the land given on lease rent for 30 years in the year 1966 should have been taken back by Government after the expiry of 30 years in 1996. Committee is of the clear opinion that, except sending the notices no action was taken by the Government in this regard.  It is recommended that it is necessary to physically verify the site and realistic information should be submitted to the Committee. (Sr. No. 5.42 of the PAC Report)	Not received

**APPENDIX-IX**  
**Non-registration of Lease Deed (Mumbai city)**  
**(Reference: Paragraph 3.1)**

Sr. No.	Name of lessee, CS No. and Location	Area in sq m	Amount of lease rent per annum in ₹	Date of possession	Period for which lease deed not registered (in years)
1	MCGM 2/600 , Colaba	21,385.87	5,56,035	15-06-1980	32
2	M/s R.R. Investment and Estate Private Limited, 1923/BBR-III, Fort Division	3,218.25	7,67,900	14-05-1970	42
3	Sindh Work Co-operative Housing Society, Malabar Hills Mumbai-6, 4/697 Malabar Division	6,637.46	11,400	21-04-1970	42
4	Maliram Mittal, 1933 Plot No.228 BBR-III Fort Division	4,325.40	11,38,662	05-05-1972	40
5	M/s Maker Development Services Pvt.Ltd., Plot No. 734,74,83,84 Block V BBR	16,834.08	43,76,861	19-04-1974	38
6	Nirmal Commercial Pvt. Ltd., 1919/BBR-III, Fort Division	3,449.00	Not available	28-11-1964	47
7	BEST under taking, 1967/BBR-III, Fort Division CS No.(149-150)	7,944.44	2,58,193	March 1974	38
8	Greater Bombay Police Club, 1/1448 & 3/1448 Fort Division	1,870.93	1	05-06-1979	33
9	Prerana Premises Pvt. Ltd. Maker Bhavan New Marine Lines,1963/BBR- III, Fort Division	10,320.64	36,22,545	30-04-1974	38
10	(i) Mumbai University,1708/Plot No.30, BBR Fort Division	1,442.32	1	14-04-1958	54
	(ii) Mumbai University,1715/Plot No.39 BBR Fort Division	1,563.56	1	19-05-1958	54
	(iii) Mumbai University, 1721/Plot No.45, BBR Fort Division	1,567.74	1	28-12-1961	50
11	Foreshore Co-operative Housing Society Pvt. Ltd., CS No. 1938 and 1939, Worli	3,529.88	6,44,000	November 1983	29
	<b>Total</b>	<b>84,089.57</b>			

**APPENDIX- X**  
**Revenue potential involved at 1.33 FSI in respect of redevelopment charges**  
*(Reference: Paragraph 3.2)*

Sr. No.	Name of the lessee / Cadastral Survey No / Location	Date of Government sanction	Area in sq m	Rate as per ASR for Single FSI (₹)	Rate of land for 1.33 FSI (₹)	Market value of land at 1.33 FSI` (col. 4 X 6)	Market value of land as per 1 FSI (col. 5 X 4)	Short determination of market value (col. 7 – 8)	Estimated short recovery of redevelopment charges (col. 9 X 10 per cent)
						(₹ in crore)			
1	2	3	4	5	6	7	8	9	10
1	Simplex Reality Limited*1960/ Byculla	May 2009	7,836.18	17,800	23,674	18.55	13.95	4.6	0.46
2	Patrical Erasmr Turner (Legal Heirs);/ 448/ Mazgaon	August 2009	1,339.47	22,100	29,393	3.94	2.96	0.98	0.09
3	R.R.Builders; 1/716/ Mazgaon Division	August 2009	9,197.43	24,100	32,053	29.48	22.17	7.31	0.73
4	Shah Agakhan; 362/ Mazgaon Division	February 2012	3,769.91	34,300	45,619	17.20	12.93	4.27	0.43
5	Sasoon Spinning and Weaving Company Ltd.; 592 & 593/ Mazgaon	March 2012	3,0910.15	33,600	44,688	138.13	97.77	40.36	4.04
<b>Total</b>			<b>53,053.14</b>			<b>207.3</b>	<b>149.78</b>	<b>57.52</b>	<b>5.75</b>

\* Earlier known as Simplex Mills Company Limited but name changed as per certificate of incorporation issued by the Registrar of Companies, Mumbai on 9 September 2005.

# Proposal sent to Government in February 2012.



**APPENDIX-XI**  
**List of lessees who have committed breach of conditions**  
**(Reference: Paragraph 4.2.11)**

Sr.No.	Name of the lessee	Area in sq. meter	Breach of condition
1	Shri Chunnilal Dharamdas Gandhi Shri M.M. Gandhi	2,282.60	2(H)
2	M/s. Sea King Premises Co-op Hsg. Soc. Ltd.	3,089.46	2(H)
3	Hilmeri Premises Co-op Hsg. Soc.	1,814.54	2(H)
4	M/s. Sea Breez Apartment	2,732.50	2(H)
5	Smt. Sibil Parera (Band Stand Co-op Soc.	5,593.20	2(H)
6	Asudha Kutir Maount Meri Road Co-op Hsg. Soc.	2,621.20	2(H)
7	Mount Meri Co-op Hsg. Ltd.	2,134.61	2(H)
8	Shri M.D. Kuka, Smt. G.M. Kuka, Shri Vasudeo Vadhwa	1,000.28	2(H)
9	Shri S.B. Jain & U.B. Jain (Vindhyachal Co-op Hsg. Soc.)	3,071.90	2(H)
10	Seema Apartment, Smt. Johora S. Nayani	3,914.71	2(H) & 2 (G)
11	Shri Barbarji Jiwaji Mestri, Shri Dinshaw B. Mestri	1,010.86	2(H) & 2 (G)
12	M/s. Fair Premises Co-op Hsg. Soc.	2,257.50	2(H) & 2 (G)
13	West Steel Traders (Vrindavan Co-op Hsg. Soc.	2,801.00	2(H) & 2 (G)
14	Haji Daud Ilyas & other three	3,066.00	2(H) & 2 (G)
15	Zefire Co-op Hsg. Soc	2,991.63	2(H) & 2 (G)
16	Vaikunth Co-op Hsg. Soc	1,523.41	2(H) & 2 (G)
17	Shri A. M. Disoza, Smt. Meri Z. Disoza, M/s. Asit Premises Co-op Hsg. Soc.	4,145.01	2(H) & 2 (G)
18	Smt. Sirinbai N. J. Dadi	3,449.89	2(H) & 2 (G)
19	Smt. Sirinbai N. J. Dadi	3,449.89	2(H) & 2 (G)
20	Shri A.A. Natalwala	3,115.35	2(H) & 2 (G)
21	Shri V.A. Parera	1,551.60	2(H) & 2 (G)
22	Shri Haji Habib Haji Karim	4,345.40	2(H) & 2 (G)
23	Smt. Gresi Martha Lopis	27,330.00	2(H) & 2 (G)
24	Sagar Resham Co-op Hsg. Soc. Ltd.	2,483.27	2(H) & 2 (G)
25	Sagar Resham Co-op Hsg. Soc. Ltd.	2,483.27	2(H) & 2 (G)
26	Shri Govardhandas Khilnani	3,293.50	2(H) & 2 (G)
27	Lady Nawab Bhai Ratan Tata (Silver Cascade Society)	4,480.25	2(H) & 2 (G)
28	Smt. Gulbano, M.H. Premji	989.96	2(H) & 2 (G)
29	Shri V. A. Parera	2,115.00	2(H) & 2 (G)
30	Shri V. A. Parera	1,533.00	2(H) & 2 (G)
31	M/s. Rajesh Construction	2,427.28	2(H) & 2 (G)

Condition 2(G), the lessees were prohibited from transferring or assigning the allotted plot or part thereof without the consent in writing of Collector.

Condition 2(H) the lessee could not at any time have building covering or projecting over more than an area prescribed for the said plot of land.

**APPENDIX-XII**  
**Loss due to short recovery of lease rent**  
*(Reference : Paragraph 7.5.3)*

Sr. No.	Name of person/Society to whom land allotted	Annual Lease Rent (₹)	Total lease rent upto 2011-12 (₹)	Lease rent paid (₹)	Total lease rent recoverable (₹)
1.	Bilawar Association, Anand Nagar colony, Santacruz (E) Agreement date-02.03.2002	12,324	1,23,240 (12,324 X 10 years)	0	1,23,240
2.	Maharashtra State Police Employees Co-operative Housing Society , Poisar - Kandivili, Agreement date-03.06.1996	7,34,815	1,17,57,040 (7,34,815 X 16 years)	37,23,076	80,33,964
3.	Vagadvisha Oshwal Society, Oshiwara Phase I colony Agreement date-16.08.1999	19,330	2,31,960 (19,330 X 12 years)	0	2,31,960
4.	Brihad-Mumbai Gujrati Samaj Oshiwara Phase I colony Agreement date-19.07.2001	27,720	2,77,200 (27720 X 10 years)	0	2,77,200
5.	Shri Sai Housing Co-op. Society Oshiwara colony Agreement date-28.02.2002	8,34,982	83,49,820 (8,34,982 X 10 years)	0	83,49,820
6.	Shivanjali Sahkari Grihnirman Sanstha (kabij) Oshiwara Agreement date-29.01.1997	1,61,897.60 (1,46,602.60 +15,295)	25,75,067 (1,46,602.60 X 16 years + 15,295 X 15 years)	3,23,795	22,51,272
<b>Total</b>					<b>1,92,67,456,</b>