Indian Supreme Court gives green light to sell off Mumbai mill lands

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The Indian Supreme Court early last month sanctioned the sale of hundreds of acres of land occupied by textile mills in Mumbai (Bombay) to private developers despite widespread protests. In all, 58 mills sit on 602 acres of prime land in the heart of a city where prices are high even by world standards. The land will be used to build expensive shopping malls and high-end apartments for the affluent few.

The court ruled that some 285 acres of land occupied by defunct textile mills could be sold. Supreme Court judges S.B. Sinha and P.P. Naolekar overturned an earlier ruling by the Bombay High Court, which opposed last year's sale of the state-run National Textile Corporation (NTC) as arbitrary, illegal and unconstitutional.

"The city has virtually been gifted to the real estate lobby," the Mumbai People's Action Committee (MPAC) declared. MPAC is a coalition of 40 organisations of intellectuals, NGOs, trade unions, environmental and human rights groups opposed to the sale. It is pressing the state government of Maharashtra to issue an ordinance that would effectively reverse the court ruling.

According to municipal rules—the Bombay Industrial Relations Act 1946 and the Factories Act 1948—the mill lands are reserved for industrial use only. They were mostly given to the mill owners at cheap rates by the British colonial government in Bombay in the early twentieth century to promote industrial production—mostly cotton manufacturing.

The area was a militant stronghold of the working class. The first major strike was in 1919 when 150,000 workers stopped work for 18 days to demand a pay rise. By the early 1980s, however, India's subsidised textile industry confronted growing global competition. The betrayal of the 1982 strike by the Stalinist Communist Party of India (CPI) leadership paved the way for a massive downsizing of Bombay's mill workforce of 250,000. Two decades ago, almost 27 percent of the city's organised workforce was employed in the mills. By 1991, the figure had dropped to 12.5 percent and today is far lower.

In line with the turn by the national government to market reform in 1991, the city's land regulation laws were amended to allow for the "development" of the mill lands. The Development Control Rules (DCR) of 1991 and subsequent amendments paved the way for the lease or sale a portion of mill land to private builders and to city authorities for infrastructure projects to "modernise" India's financial and industrial hub.

In April 1998, plans for a recreation facility were drawn up, supposedly for benefit of the remaining mill workers. The Bowling Company opened in 1999 with much fanfare on the premises of the former Phoenix Mills complex. The spot has become a favourite site for photo opportunities for Bollywood's film stars and other celebrities as well as a hang out for the rich. Mill workers cannot afford the 50-rupee admission charge, which is more than half a day's wages.

Under DCR 58, the vacant mill land was to be allocated according to "a one-third formula"—one third of affordable homes for mill workers, one third for public use, including parks, and one third for commercial use. According to this legal provision, Mumbai municipal authorities were to guarantee 400 acres of mill land for open space and for public housing.

In 2001, using a loophole in the Maharashtra Town and Planning Act 1966, DCR 58 was amended to DCR 58 (I), which stated: "Only land that is vacant on mill properties, that is, with no built-up structure, would be divided by the one-third formula". With this legal sleight of hand, the way was opened to sell most prime land to private developers, leaving just 133 acres for public housing and recreation.

The amendment allowed the National Textile Mills to be sold in 2005 for $US158 million to the Delhi-based builder DLF in what was one of India's highest priced real estate sales. Another mill Kohinoor was sold for $95 million to a company, reportedly owned by two leading Mumbai politicians. The Supreme Court ruling has upheld these deals and opened the door for further land sales.

Protestors have criticised the court ruling, pointing out that it could allow the sale of other state-owned land at the expense of the city's poor. An estimated 60 percent of Mumbai's 12 million people live in slums and shanty towns. "The judgment has far-reaching implications. Not only has it dealt a blow to the teeming metropolis, but it will set a precedent for other cities as well," the MPAC warned.

As a part of its "modernisation" strategy to upgrade the city's dilapidated infrastructure to meet business demands, the Mumbai municipal corporation and Maharashtra state government has signalled that "illegal encroachers" or migrant workers will not longer tolerated. The only exceptions will be those who can prove their residency in Mumbai prior to the cut off date of January 1, 1995.

In the absence of cheap public housing, the city's working poor have settled on vacant land and reclaimed marshland and homeless residents occupy pavements as well as strips of land alongside railway lines and water pipes. Dharavi, Asia's largest slum, is situated in Mumbai and houses more than one million people. Last year, in the course of eight weeks, more than 60,000 slum dwellings were razed, leaving an estimated 300,000 people homeless.

A report produced by the private consulting firm McKinsey in 2003 entitled "Vision Mumbai: Transforming Mumbai into a world-class city by 2013" called for the "relocation" of slums situated on or near important public locations, such as parks, railways and airports, to unused government land and current No Development Zones (NDZs).

The report advocated the construction of Special Housing Zones on the salt-pan lands in the north of Mumbai with a limited number of low-cost housing units for displaced slum dwellers. While charging the poor between 25,000 and 50,000 rupees, or about 100-200 rupees per square foot, for the units, their vacated land in central Mumbai would be sold off at upwards of 7,000 per square foot.

A state government task force studied the proposals and issued final recommendations to change Mumbai into "a hub for high-end services like finance, information technology and IT-enabled services, healthcare and media and entertainment" via "public-private partnerships".

The task force report, finalised by November 2003, estimated that the "Vision Plan" would cost $40 billion over 10 years and called for the creation of a Mumbai Development Fund (MDF). The state government planned to invest less than one-tenth of the total costs and to seek the remainder from private investors. It called for the city's land assets should be "leveraged" to boost revenue for the scheme by converting leaseholds to freeholds.

Other suggestions included the repeal of the Urban Land Ceiling Act to "unlock large amounts of land for residential construction". These proposals are to be coupled with the implementation of limited period tenancy via a Mumbai Rent Control Act to curb the permanent residency rights of poor migrant workers from the rural hinterlands.

The city of Mumbai plans to facilitate the addition of 10-12 million square feet of office space for banks and corporations in the next few years. Contracts for nearly 2 million square feet of office space were transacted in 2004 on top of 1.5 million in 2003. Through slum clearances in the northern and north-eastern suburbs of the city, an estimated 300 acres of land have been cleared for potential development. The Supreme Court decision last month has opened up another large source of prime land for private profit.

The last consideration in any of these moves is the plight of millions of slum dwellers in Mumbai who are forced to survive in terrible conditions without basic services. Land, which could have been used to provide cheap public housing and proper recreational facilities, is being shamelessly handed over to profiteers for the use of the middle class and corporate elite.