Central University of Karnataka
Journal of Legal Studies (CUKJLS)
Volume I (Summer Issue - 2)
January to June 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

The Invisible City: How Adverse Possession Could Save Dharavi, India

Sanya Darakhshan Kishwar,[*] Aditya Bhattacharya[**] and Prisha Chaudhary[***]

[*&***]O.P. Jindal Global University, India; [*]Aligarh Muslim University, India
Corresponding Author Email ID: sanyadarakshan@gmail.com
DOI Link: https://doi.org/10.5281/zenodo.22974022

Abstract

Between 2022 and 2023 alone, around 740,000 individuals were removed from their homes, and over 150,000 houses were pulled down by Indian government authorities; more than half of these demolitions were carried out on the pretext of upgrading their condition (Housing and Land Rights Network [HLRN], 2024). The paper inquires whether the continuous, ancient, and open occupancy of land by the people of Dharavi qualifies as adverse possession under Indian Law, and whether there is a possible legal route to exploit it. By analyzing the Limitation Act of 1963 and its interpretation in the courts, the authors demonstrate that while the duration and openness conditions of adverse possession may be met by many residents of Dharavi easily, there remain two significant problems: in an informal settlement like Dharavi it is impossible to set the starting date of occupancy, and the existence of a contradiction between the occupying population and the state, which provided the people with water and electricity, and ration cards as well. The authors also investigate the thirty-year limitation period that is imposed on public land under Article 112, as well as the Supreme Court's ambiguous attitude towards the doctrine of adverse possession. Ultimately, the paper reinforces its conclusion that adverse possession is more a legal principle than a litigation strategy.

Keywords:

Adverse Possession; Dharavi; Slum Redevelopment; Limitation Act, 1963; Right to Shelter; Urban Displacement

Paper Code- CUKJLS-2026-080
Submitted- July 15, 2026; Accepted- September 11, 2026; Published- September 26, 2026

Copyright © CUKJLS 2026

Central University of Karnataka
Journal of Legal Studies (CUKJLS)
Volume I (Summer Issue - 2)
January to June 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

Introduction

On 25 December 2025, someone posted on X, "It is good to land in Mumbai and not see the slums." Remarks of this kind, echoed periodically on social media whenever the Mumbai skyline is photographed from the air, are an example of a shocking apathy, a silent satisfaction of hiding poverty from the public view, while being oblivious to the human aspect behind slums and chawls, oblivious to countless families who poured decades of their lives into the construction of houses with common walls, raising children, and paying bills. These chawls and slums are the city's unsung lifelines, where workers toil lifelong for "roti, kapda aur makan" (food, clothing and shelter) through tireless days. According to a report by the Housing and Land Rights Network, between 2022 and 2023, Indian authorities conducted over 270 demolition drives, evicting 7.4 lakh people and demolishing 1.53 lakh homes across 23 states and four Union Territories; of these, 58.7 percent (about 4.34 lakh people) were evicted on account of slum-clearance, encroachment-removal, and city-beautification drives, with Maharashtra among the states that reported multiple such drives (HLRN, 2024). Such anti-encroachment drives raise a very important question: do these people have any legal safeguards for their proprietary rights? People who have inhabited a particular structure, although without proper documentation or a title, yet occupying it continuously and without interruption, may thereby create an adverse possession over that property in their favour. This article explores whether such lived reality amounts to adverse possession, thereby shielding slum residents from the bulldozers of urban "development." The development that might seem beneficial to all may not include the slum dwellers of Dharavi; these people may be given generous promises of homes in exchange for their land, but the reality may be only displacement.

This article does not contend that adverse possession offers Dharavi's residents a guaranteed route to a decree of ownership in court. The article attempts to tackle the doctrinal hurdles, particularly the requirement of hostile possession against a sovereign landowner, which makes any straightforward

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

litigation strategy uncertain at best. The researchers work to answer the core research question: whether the accumulation of years of continuous occupation has created a legal cause of action that ought to play a role in determining how redevelopment is carried out. In addition, the work includes several additional inquiries, including who has the right to participate in the talks and under what terms rehabilitation is offered. Adverse possession is not only a legal concept but also holds greater significance, as it helps protect the reality of occupation in discussions concerning the future of Dharavi. To avoid conflating distinct questions, this article separates its enquiry into three strands, each treated separately rather than woven together. The first is the theoretical possibility that Dharavi residents could, in principle, satisfy the doctrinal elements of adverse possession under the Limitation Act, 1963. The second is the practical barriers that stand between that theoretical possibility and a courtroom victory, chiefly the difficulty of fixing a start date for occupation, the thirty-year limitation period applicable to government land, and the requirement of hostility against a welfare-providing state. The third is the normative value of the doctrine, that is, its usefulness as a vocabulary for negotiating rehabilitation terms even where litigation is unlikely to succeed. The article's central claim is that the first strand is frequently satisfied, the second is rarely satisfied, and the third is satisfied regardless of the outcomes of the first two.

Research Methodology

Objectives of the Study

This study has four purposes. First, it analyses whether, in principle, the elements of adverse possession set out in the Limitation Act of 1963 are satisfied by people who have lived in Dharavi for long periods. Second, it recognises the various evidential obstacles that prevent reality from matching this theoretical possibility. The investigation focuses particularly on the thirty-year prescription period for government lands stipulated in Article 112 and the requirement that the possession be ‘hostile’ to a welfare state. Third, it assesses

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

the normative and negotiation significance of the principle taken independently of any litigation circumstances. Fourth, the present work draws on the aforementioned principles to reconcile them with the constitutional right for shelter stipulated in Article 21 of the Constitution of India to make this notion fall into a broader public law context regulating eviction and rehabilitation processes.

Nature of the Study

This study is doctrinal and analytical and not empirical. It employs the black-letter approach and examines the Limitation Act, 1963, the Maharashtra Slum Areas Act, 1971, and the Development Control and Promotion Regulations, 2034, along with their judicial interpretation. It uses the legal principles studied in the works to study the specific situation in Dharavi as a case study. No fieldwork, surveys, or interviews with Dharavi's inhabitants have been conducted; the facts presented on Dharavi's demography, transport, and redevelopment are secondary.

Sources of Research

The primary sources are the Limitation Act of 1963; the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971; the Development Control and Promotion Regulations for Greater Mumbai (2034); the Constitution of India; and the Supreme Court and High Courts judgments accessed from the appropriate courts' websites along with Indian Kanoon, SCC Online and other similar sources.

The secondary sources are the Law Commission of India's 280th Report on adverse possession, reports from the Housing and Land Rights Network, research papers, and publications from other media outlets. If the fact relating to the project is based on a single report, the claim is validated by reports from other independent sources.

Formation of Hypothesis

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

The assumption on which this study is based is that while it is reasonable to assume that the long-time residents of Dharavi meet the requirements on duration and openness for claiming title to property by adverse possession under Article 65 of the Limitation Act 1963, the requirement of hostile possession against the government and the long time limit of thirty years for adverse possession claims against government land under Article 112 makes adverse possession impossible as a legal strategy. However, the doctrine of adverse possession is considered significant as a legal doctrine that can help in negotiations regarding rehabilitation provisions.

Findings

The subsequent analysis provides strong support for this hypothesis. Sections I and II indicate that many Dharavi households will likely pass the five-fold test's requirements for 'durational' and 'openness' land ownership, but that the necessity for a firm date of claiming possession, combined with the unclear legal status of state-funded services, creates issues for the 'hostility' requirement. Sections iii and iv demonstrate that Article 112's thirty-year rule means that the Supreme Court's recently restrictive approach toward adverse possession claims regarding state land reduces the possibility of achieving favourable results in litigation for most cases. Finally, sections v and vi summarise the theoretical significance of these findings despite the difficulties faced in litigation.

Adverse Possession: Conceptual Overview

The term adverse possession means that someone may acquire title to a piece of land after occupying it for a certain number of years, without needing the title to it. Based on the legal concept that the law only protects those who act on their rights, and does not protect those who fail to act. Though this is an ancient legal term, its origins are not entirely clear; the Code of Hammurabi, dating to around 2000 B.C., is often cited as one of the earliest documents related to such concepts (The Code of Hammurabi, n.d.). Rule 30 of this Code dealt with a similar issue, although it does not name it as adverse possession

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

as understood today: any person who leaves his house, orchard, and field for three years and lets them out is not able to claim it back on return from one who has taken possession and has been using it (The Code of Hammurabi, n.d.). The Privy Council in *Perry v. Clissold* (1907) recognised this doctrine for the first time in the common law world relevant to India, holding that a person in possession of land in the assumed character of owner, exercising the ordinary rights of ownership peaceably, has a perfectly good title against all the world but the rightful owner. If the rightful owner does not come forward and assert title through the process of law within the period prescribed by the applicable statute of limitations, that right is forever extinguished, and the possessory owner acquires an absolute title (Perry v. Clissold, 1907). This ruling was approved by the Indian Supreme Court, per Hidayatullah J., in *Nair Service Society Ltd. v. K.C. Alexander* (1968). Almost all major jurisdictions today recognise the doctrine of adverse possession in some form, resting on the idea that only those who actively assert their rights within the legally allotted time frame are protected by law.

In India, Section 3 of the Limitation Act, 1963 provides that a court will not take cognisance of any suit barred by limitation, even if the plea of limitation is not raised as a defence. Section 27 of the Act contains the provision on adverse possession, operating as an exception to the general principle of limitation: if a person fails to file a suit for recovery of possession within the period of limitation, the right to recover that property is extinguished. Since a property cannot be left ownerless, this extinguishment gives rise to a corresponding title in the possessor. Article 65 of Schedule I to the Act prescribes a limitation period of twelve years for a suit for possession of immovable property founded on title, as distinct from a suit based on mere possessory right, which is instead governed by Article 64 (also twelve years, running from the date of dispossession). Both articles are to be read with Section 27. To establish a claim of adverse possession, therefore, a claimant must show: first, that possession was continuous and uninterrupted; second,

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

that it continued for at least the statutory period of twelve years; third, that it was hostile to the original owner; and fourth, that it was peaceful.

In *Bhimrao Dnyanoba Patil v. State of Maharashtra* (2002), it was established by the Bombay High Court that mere possession for a long time cannot confer the title through adverse possession unless such possession is accompanied by adverse animus. *P.T. Munichikkanna Reddy v. Revamma* (2007) was the case in which the Supreme Court elaborated the law of adverse possession, holding that the right arises not only when the true owner loses the right to recover the property due to willful and overt negligence, but also when the possessor intends to dispossess. In 2019, the Supreme Court in *Ravinder Kaur Grewal v. Manjit Kaur* settled the question of whether a person who claims title through adverse possession can file a suit under Article 65 of the Limitation Act to obtain a declaration of title and secure or restore possession after unlawful dispossession. The Court held that a person in possession cannot be ousted by another except through due process of law, and that once the twelve-year period of adverse possession has run, even the owner's right to eject is lost; the possessory owner acquires the right, title, and interest previously held by the outgoing owner. Once acquired, this right, title, or interest can be used as a sword by a plaintiff as well as a shield by a defendant within the meaning of Article 65, and any person who has perfected title by adverse possession may sue for restoration of possession in case of dispossession; a possessory suit for mere dispossession by a third party may also be maintained under Article 64 even before title has ripened (Ravinder Kaur Grewal v. Manjit Kaur, 2019).

The Court further held that adverse possession requires the simultaneous presence of three traditional requirements, nec vi (adequate in continuity), nec clam (adequate in publicity), and nec precario (adverse to a competitor, in denial of title and knowledge), such that the possession is visible, notorious, and peaceful, with knowledge imputed to the owner on the footing that reasonable diligence would have revealed it.

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

Can Dharavi Dwellers Claim Adverse Possession?

Dharavi, India's largest slum, currently has around 8.5 lakh residents and 55,000 dwelling units, with a population density of roughly 3.4 lakh per square kilometre, spread across approximately 535 acres (Kaushal & Mahajan, 2021). It comprises nearly 15,000 single-room factories and 5,000 businesses (Kaushal & Mahajan, 2021), and is recognised worldwide as one of the most densely populated urban agglomerations. Ever-increasing population density, limited hygiene infrastructure, cramped housing, and low incomes have compounded already difficult living conditions. In 2022, Adani Realty, the real-estate arm of the Adani Group, won the tender to redevelop Dharavi with an investment commitment of Rs 5,069 crore, comfortably outbidding the rival offer of Rs 2,025 crore from DLF, against a project whose overall cost has been estimated at between roughly Rs 20,000 and Rs 23,000 crore (Business Standard, 2022; Scroll.in, 2022; Swarajya, 2022). The award has not gone unchallenged: Dubai-based Seclink Technology Corporation, an unsuccessful bidder under an earlier, cancelled tender round, contested the fairness of the 2022 process before the Bombay High Court, which in December 2024 upheld the award to Adani Realty and found no arbitrariness in the tendering process; the Supreme Court subsequently declined to stay the project (Business Standard, 2025). Residents are being displaced through phased eviction notices and temporary relocations, as authorities argue that shifting people out in small pockets is unavoidable to create space for construction under the redevelopment project.

i. The Five-Fold Test and the Evidentiary Gap

In the case, *Karnataka Board of Wakf v. Government of India* (2004), the Supreme Court articulated a five-point test for claiming adverse possession. The claimant must indicate when possession started, how possession was characterised, whether it was known to the true owner, how long it lasted, and whether it was open and undisturbed. When mapped onto Dharavi, these five requirements do not stand or fall together; each must be assessed on its own

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

merits. Two of the five, duration and openness, are comfortably met by long-settled households; a third, the nature of possession, is straightforward on the facts, since residents openly build, rent out, and pass on their structures as if they owned them; a fourth, knowledge of the true owner, is arguably satisfied given the municipal enumerations described below; but the fifth, the date of commencement, is where the difficulty lies, and it is this element that the remainder of this section addresses. On the one hand, duration and openness are evident in the number of years of occupation in the case of many households. For instance, there are households that have been in the same place for thirty or forty years, as their presence in the existing structures can be easily verified by municipal authorities through a number of enumerations done over the years. However, the problem emerges already at the first stage, which is the beginning of occupation. It should be noted that slums do not arise from a single occupation process but develop gradually through many household settlements constructed at different points in time, with no records of colonial presence in the area. Insufficient documentation is not critical, as the law accepts indirect evidence, such as ration cards, voter lists, or tax documents; however, the problem is difficult to resolve due to the issue of continuity of settlement.

ii. Hostility Against a Welfare State

The more complex query is not one of evidence but one of concept, asking if occupation with long-time municipal works, ration cards, student admissions, and voter registration can still be referred to as "hostile." The court cases give mixed answers to this question. According to *T. Anjanappa v. Somalingappa* (2006), long possession does not automatically convert into a case of adverse possession unless there is proof of deliberate infringement of the title of the true dominion of title holders. The conclusion drawn from this case can be rather disadvantageous to residents, as their relations with the state were mostly characterised by dependency rather than violations. At the same time, it should be noted that the law never required a possessor to publicly express hostility; it was enough that the kind of possession is incompatible with the

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

owner's ownership. The state that has lost control over more than fifty-five thousand structures, does not collect rent, and does not claim exclusiveness, cannot simply claim its provision of electric supply as proof that it permits people to use the property. If so, it would mean the institution might use public services to protect itself against any claims related to adverse possession.

This position finds some support in the treatment courts have given to analogous disputes over utility connections on occupied land. In *Santosh Jaiswal v. CESC Ltd.* (2008), the Calcutta High Court held that the supply of electricity by a licensee to an occupant does not prejudice the true owner's right to seek eviction, nor does it alter the legal character of the occupant's possession; a licensee's obligation is confined to selling electricity on compliance with statutory formalities, and it is not for the licensee, still less for the fact of supply itself, to adjudicate upon the lawfulness of the occupation. Despite the fact that this matter arose outside the field of adverse possession, its underlying justification is enlightening: if providing a service connection does not, by itself, qualify a trespasser as a licensee in terms of eviction law, then it also ought to be viewed as not having provided permission that prevents us from claiming ownership for purposes of Limitation Act. This analogy may not be exact, as the provision of electricity to the licensee is fundamentally different from the government letting the likelihood of happening a trespass go by unnoticed, but it nevertheless gives us a good reason to believe that the continued provision of public services to the settled group of people should be conceived along the lines of the government complying with its obligations to carry out social and legal functions rather than in terms of giving the landowners meaningfully granting permission to occupy. The distinction between the government acting as a provider of social service and the government acting as an owner is yet to be established in Indian courts in the context of adverse possession, and the state of things makes it purely an argument rather than a settled position.

The principle of adverse possession presents an intricate legal premise but a practically significant one for assessing the claims of long-dwelling

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

inhabitants in Dharavi. The principle of Article 65 mentions that if a person possesses consistently, openly, and illegally the property for more than twelve years, the right of possession is established while the ownership of the negligent original owner is eliminated. Considering the fact that many of the population of Dharavi, whose families have been on their plots for decades (twelve years is far less than the duration of their occupancy), have fulfilled the factual conditions of duration and open possession, it becomes clear that they made their occupation very visible, widely known, and peaceful, demonstrating the principle of nec vi, nec clam. This long-term occupancy in the assumed ownership brings a solid argument that the rights of possession have developed into the right of ownership. It should be remembered that ownership and possession differ: ownership is the main right of a customer, while possession is the right to claim ownership. As stated earlier, there is no chance of claiming ownership of private property after 12 years; for public property, the period for claiming ownership increases to 30 years. However, implementing this theoretical standpoint in a court case is much more difficult. The main drawback is determining the property's actual owner. In most cases, the land in Dharavi belongs to the state of Maharashtra, a sovereign state, making the claim difficult to sustain, as judges are reluctant to treat the government's inaction as acquiescence. Moreover, there are other problems, like proving that the claims are hostile.

iii. The Thirty-Year Threshold Against Government Land

The figure of thirty years mentioned is derived from a specific legal provision. Article 112 of Schedule I of the Limitation Act, 1963 establishes thirty years, and not twelve, as a time within which a suit by or for the Central or State Government needs to be instituted, and this provision, read with the provisions of Section 27, highlights the time that a Dharavi Household has to wait before the title of the Government gets extinguished. For the land of the Maharashtra Housing and Area Development Authority and the Brihanmumbai Municipal Corporation, it is not a mere legal technicality; it may happen that a household which settled as early in the 1990s, beyond the limit of twelve years with

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

regard to the private owner, may still have a problem registering its claim against the state, particularly when it is considered that it may be difficult to ascertain the exact date of commencement.

The attitude of the Supreme Court toward adverse possession on government land is a further reason for concern. In *Hemaji Waghaji Jat v. Bhikhabhai Khengarbhai Harijan* (2009), the Court explained the doctrine in harsh terms. It stated that the concept rewards the trespasser's act and punishes the owner's inaction, and asked Parliament to review the law. Two years later, in the case of *State of Haryana v. Mukesh Kumar* (2011), a different Bench took an even stronger position in holding that the welfare state should never resort to the use of adverse possession against its own people, because its doing so is inconsistent with the obligations of the state towards the citizens it governs. It should be stated that the case was the exact opposite of this one. In this case, the state invoked the adverse possession doctrine against private landowners, but the reasoning applies equally in reverse. If the court does not want to allow the state to invoke the doctrine against its citizens, it is hardly going to change its understanding of the doctrine just because the roles are reversed. The same reasoning that protects citizens from the state may lead to additional arguments against the government's claims of adverse possession against its citizens.

A detailed examination of the courts' real usage of Article 112, unlike the general statements of Hemaji Waghaji Jat and Mukesh Kumar, makes the situation even more convoluted. The Law Commission of India in its 280th Report on adverse possession (2023) emphasized that there were important rulings of the Supreme Court dealing with adverse possession that refer to the case of Hemaji Waghaji Jat and Mukesh Kumar, and Ravinder Kaur Grewal but the cases did not touch upon Articles 111 and 112 of the Schedule to the Limitation Act which gives the extended thirty-year period just to the state land (Law Commission of India, 2023). This implies that those decisions became critical to the realisation of the mechanism without conducting an appropriate analysis of the use of Article 112, though they did provoke negative reactions towards the doctrine as a whole. The few decisions that

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

exist regulating the use of Article 112 clearly illustrate that the thirty-year period was used not only as a theoretical provision. In K. Kuppusamy v. State of Tamil Nadu (2023), for instance, the Madras High Court dismissed the claim on adverse possession in relation to the state land just because the evidence of the possession presented by the claimant confirmed the actual possession only from the moment when it became impossible to have thirty years' possession due to the notification as per the Land Encroachment Act; it is worth mentioning that such a claim would have been successful concerning a private owner and the twelve-year rule. In disputes involving government forest property, courts have also come to similar results because the claimants failed to establish continuous hostile occupation, resulting in the courts upholding some eviction orders issued under forest law and anti-encroachment laws. The writers could not identify any case where adverse possession claims made against government property in informal settlements succeeded given such facts, and the complete absence of case law leads to the conclusion that it is very difficult to prove the date of commencement that is thirty years ago, in a settlement that developed gradually and had no relevant documents.

iv. The Sword, the Shield, and the Limits of Litigation

Nonetheless, the doctrine is further strengthened by the judgment of the Supreme Court in Ravinder Kaur Grewal v. Manjit Kaur in 2019. The Court reversed previous judgments and established that the doctrine of adverse possession can be employed by a person owning the title and not only serve as a means of protection. Thus, the power of the doctrine of adverse possession is to be used by the local area population in filing lawsuits for establishing their right on the property in question. Thus, the doctrine establishes a legal basis to contest arbitrary eligibility criteria and to ensure that rehabilitation policies recognise residents' rightful claims over the long term and, as a consequence, make it possible for redevelopment to progress through negotiations rather than displacement.

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

In light of the large-scale reconstruction project, Dharavi residents are scared of their being displaced. The project seeks to transform the housing block inhabited by an estimated community of 400,000 to 1,000,000 people, with hundreds coming every year from various parts of India in search of better jobs, while the exact population of Dharavi is unknown (Behal, 2026). At first, it was declared that only those living on the ground floor were eligible for free rehabilitation, but after public criticism, the Maharashtra government allowed the rehabilitation of first-floor residents as well, provided that they could show proof of residency. As for those who lived on the upper floors, they could either pay a symbolic rent for the following twenty-five years or pay a lump-sum payment at any point during their stay in Dharavi and take ownership of the flat at that time.

v. The Photo-Pass Regime and the Logic of Adverse Possession

The two main statutes regulating slum development in Mumbai is the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act of 1971 (Slums Act) and the Development Control and Promotion Regulations of 2034 (Regulations). The vagueness and shortsightedness of these two instruments arguably contribute to the proliferation of slums in the city. For instance, under the Slums Act, a slum dweller must show valid proof that a hutment existed prior to 1 January 2000 to be eligible for accommodation under the redevelopment scheme (Charalwar, 2020). One accepted document is an electricity bill, yet Dharavi received full electricity coverage only in 2008 (Hite, 2026), creating a significant gap for those who arrived after the cut-off date but before 2008. A resident who has established residency receives a photo pass that serves as a prerequisite for the rehabilitation benefit. However, those who were unable to do so before the cut-off date are not eligible for rehabilitation, thus creating two classes of residents. What is the basis for selecting 1 January 2000 as the cut-off date? The reasons are not specified clearly. The regulations, which were announced in 2018, govern urban planning in Mumbai. Regulation 33(10), clause 1.15 states that in case 51 per cent of the citizens living in the area where redevelopment is planned vote in

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

favour of redevelopment, a society shall be formed and a builder selected (Development Control and Promotion Regulations for Greater Mumbai, 2034, 2018). Thus, it seems like the next question arises. Can a majority vote nullify the rights of the remaining 49 per cent of residents, and can the consent requirement be used by developers for their own benefit?

The documentary requirement of the Slums Act appears to contradict the principle analysed throughout this piece. Adverse possession involves asking the court not to focus on a lack of title but rather on the fact that the possession has been open and continuous for a long time; in contrast, the photo-pass system assumes that the production of a specific type of document, either an electricity bill, a ration card, or a voter registration that existed before 1 January 2000, is the only way in which actual possession can be turned into a valid claim. Therefore, although someone may be able to prove twelve, twenty, or even thirty years of open possession under the Limitation Act, that person may not be able to claim rights under the Slums Act for the simple reason of not having the one document that is needed. Although the two systems are formally separate, the gap between them highlights the rationale for treating adverse possession as a compensation mechanism. If the photo-pass system does not account for presence due to an evidentiary stumbling block unrelated to possession, then adverse possession as a doctrine allows us to focus on substance rather than paper title and fight against such exclusion.

This is not merely a doctrinal observation; cut-off dates of this kind have themselves been successfully challenged as arbitrary under Article 14. A closely analogous provision within Mumbai's own slum rehabilitation framework, a 2001 government resolution restricting photo-pass eligibility to ground-floor occupants and excluding those on upper floors, was challenged before the Bombay High Court in *Pameshkumar Nandlal Sahu v. High Power Committee* and the connected petition in *Surendra Budhiram Patel v. High Power Committee*, on the ground that such a floor-based classification, layered atop a fixed cut-off date, was arbitrary and discriminatory and therefore violative of Article 14. The Bombay High Court has more recently gone

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

further still: in *Vali Mohammed Ibrahim Kherani v. Slum Rehabilitation Authority* (2023), the Court described the practice of rehabilitating encroachers on the very land they had encroached, on the strength of what it termed "hypothetical cut off dates," as a "mockery of the public trust doctrine," and questioned whether such cut-off-based classifications could be reconciled with Article 14. Outside Mumbai, the Delhi High Court has been still more direct: in *Praveen Gupta v. Delhi Development Authority* (2026), it struck down a cut-off-date classification in a DDA circular for want of a rational nexus with its stated object, holding that while the executive may prescribe cut-off dates as a matter of administrative convenience, any such classification must still satisfy the twin tests of intelligible differentia and rational nexus under Article 14. None of these decisions directly concerned the 1 January 2000 cut-off under the Slums Act, and this article does not contend that the cut-off date has been struck down or is bound to be; but they establish that eligibility cut-off dates in slum rehabilitation schemes are a recognised, and at times successful, site of constitutional challenge in their own right, independent of any claim grounded in adverse possession. This lends the argument made here an additional foothold beyond the private-law doctrine: residents excluded by the 1 January 2000 date, or by the 2008 electrification gap identified below, may have a public-law argument available to them even where a Limitation Act claim would fail.

vi. Objections and Responses

The previous argument brings up a clear counterargument. Adverse possession, regardless of its rationale, is based on unlawful occupation of land, and showing compassion for such claims creates a danger of legitimising the very unregulated settlement process that caused the housing problem in Mumbai. Even the Supreme Court of India, in its rulings in Hemaji Waghaji Jat (2009) and State of Haryana v. Mukesh Kumar (2011), offered an opinion on that matter: the introduction of a rule converting long-term occupying of land into property right sends a message to incoming migrants that by occupying empty public lands for a long time and waiting for the authorities

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

to lose interest, one can become an owner of land. In a similar manner, English law made the same argument in *J.A. Pye (Oxford) Ltd. v. Graham* (2002), where the law was characterised as being disproportional since there is no blame on the side of the party from whom the property is taken in terms of taking his or her property. Even the Grand Chamber of the European Court of Human Rights agreed with England's position in *J.A. Pye (Oxford) Ltd. v. United Kingdom* (2007). Urban planners would say that there are secondary objections to acknowledging possession claims by people who occupied a certain area over a long period of time, as it halts processes of optimising land use, whilst overcrowding in Dharavi, the absence of sewage systems, and vulnerability to fires are caused by the lack of planning. These statements do have considerable merit, but do not refute the specific thesis put forward in the current work. The argument is not that any act of occupation becomes valid property regardless of circumstances; it argues that years of open occupation conducted with the tolerance of the authorities create an expectation of fair treatment when it comes to development plans and does not refer solely to the request for a formal title. The rationale loses much of its weight when one realises that the people who benefit from the recognition of their claims will surely not be newly arrived parties who settle in the location just before the announcement of the date of termination but, rather, the members of households who had been living there for far longer than needed for the statutory limited period of occupancy. Identifying their investment as legitimate does not suggest that the next cases of encroachment will take place but indicates that decades of state inactivity caused difficulties to the people who relied on it.

Conclusion

Till now, the conversation has touched upon a constitutional norm which is worthy of being clarified. The Supreme Court found in *Chameli Singh v. State of U.P.* (1996) that the right to live somewhere is a component element of the right to live in society as guaranteed by Article 21. This means that the right

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

to live somewhere is understood not simply as a right to a roof over one's head, but as one that entails having the necessary light, air circulation, proper sanitation, and being located not far from a place of work. If taken together with the judgment in *Olga Tellis v. Bombay Municipal Corporation* (1986), this line of argument implies that the issue of legality for people in Dharavi is not purely about ownership rights. Even a person who has not complied with the twelve-year or thirty-year requirements of the Limitation Act has a constitutional right to a fair procedure of eviction. The doctrine of adverse possession and constitutional law occupy different spheres, the former being in the realm of private law and the latter in public law; that said, both can be summed up as a unity of thought.

The legal issues surrounding adverse possession in Mumbai's chawls are complex and multifaceted, mirroring the complexities of urban housing in India at large. Though long-occupants may be legally entitled to ownership through adverse possession, establishing the requisite elements is not necessarily easy. Addressing legal ambiguities like these must be a goal of Mumbai's development to create an inclusive urban space and protect residents' rights. On many occasions, it seems that the "uninhabitable" condition of buildings occupied by people justifies total demolition instead of restoration, which contradicts the judicial decision made in Olga Tellis v. Bombay Municipal Corporation (1986), where the court noted that although slum dwellers are not entitled to claim public space, the government is responsible for providing people with accommodation. Therefore, the eviction of slum dwellers is determined by the understanding that their eviction could deprive them of their life. Although the judges made this comment regarding people who stayed in an area for more than twenty years, the essence of this statement is still relevant because frivolous urban development creates serious problems for people living in slum areas both economically and socially. The future of Dharavi will ultimately answer a fundamental question: does the Indian city belong only to those who hold a formal title, or also to those who, through adversity and decades of labour, have possessed it and given it life?

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

The response given here in this article is, accordingly, qualified along the three strands set out at the outset. On the first strand, the theoretical possibility, the answer is largely affirmative: many Dharavi households can, in principle, satisfy the durational, open, and peaceful limbs of adverse possession several times over. On the second strand, the practical barriers, the answer is largely negative: the thirty-year period applicable to government land under Article 112, the practical impossibility of proving a fixed date of commencement in a settlement that grew incrementally over decades, and the unresolved legal significance of a hostile relationship conducted alongside continued state welfare provision, together mean that adverse possession is not, at present, a reliable litigation strategy for an individual Dharavi household seeking a decree of title. It is this second aspect, rather than the doctrine as a whole, that the article's title and abstract intend to highlight as an unfulfilled promise. Nevertheless, when it comes to the third aspect of our discussion, the normative value of the doctrine remains intact in spite of the inadequacy of the second aspect. Adverse possession provides terminology based on centuries of property laws, which help in arguing that while tolerated occupation cannot be deemed illegal, once an opportunity to redevelop a site arises. Whether or not any individual household could walk into a courtroom tomorrow and obtain title, the accumulated weight of long, open, and undisturbed possession across Dharavi should inform the negotiation and defence of rehabilitation terms and eligibility cut-offs.

References

Behal, A. (2026, May 26). *How Dharavi's redevelopment plan fails to understand Dharavi.* Pulitzer Centre. https://pulitzercenter.org/stories/how-dharavis-redevelopment-plan-fails-understand-dharavi

Bhimrao Dnyanoba Patil v. State of Maharashtra, 2002 SCC OnLine Bom (High Court of Bombay, Aug. 7, 2002).

Business Standard. (2022, November 29). *Adani Properties bags Rs 5,069 crore Dharavi redevelopment project.* https://www.business-standard.com

Business Standard. (2025, March 7). *SC refuses to stay Dharavi project, asks Adani to maintain separate account.* https://www.business-standard.com

Chameli Singh v. State of U.P., (1996) 2 SCC 549 (India).

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

Charalwar, V. (2020, June 5). *Guest post: Slum rehabilitation and constitutional rights – A bewitching dream.* Indian Constitutional Law and Philosophy. https://indconlawphil.wordpress.com/2020/06/05/guest-post-slum-rehabilitation-and-constitutional-rights-a-bewitching-dream/

The Code of Hammurabi. (n.d.). (L. W. King, Trans.). Avalon Project, Yale Law School. https://avalon.law.yale.edu/ancient/hamframe.asp

Development Control and Promotion Regulations for Greater Mumbai, 2034 (2018) (India).

Hemaji Waghaji Jat v. Bhikhabhai Khengarbhai Harijan, (2009) 16 SCC 517 (India).

Hite, R. J. (2026, January 20). *Dharavi: The billion-dollar slum in the heart of Mumbai.* https://www.ryanjhite.com/2026/01/20/dharavi-the-billion-dollar-slum-that-shouldnt-exist/

Housing and Land Rights Network. (2024). Forced evictions in India: 2022 & 2023. HLRN.

J.A. Pye (Oxford) Ltd. v. Graham, [2002] UKHL 30, [2003] 1 AC 419.

J.A. Pye (Oxford) Ltd. v. United Kingdom, App. No. 44302/02, Eur. Ct. H.R. (Grand Chamber, Aug. 30, 2007).

K. Kuppusamy v. State of Tamil Nadu, S.A. No. 998 of 2007 (Madras High Court, Nov. 9, 2023).

Karnataka Board of Wakf v. Government of India, (2004) 10 SCC 779 (India).

Kaushal, J., & Mahajan, P. (2021). Asia's largest urban slum-Dharavi: A global model for management of COVID-19. *Cities, 111*, Article 103097. https://doi.org/10.1016/j.cities.2020.103097

Law Commission of India. (2023). *The law on adverse possession* (Report No. 280). Government of India.

The Limitation Act, No. 36 of 1963, India Code (1963).

The Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, No. 28 of 1971 (India).

Nair Service Society Ltd. v. K.C. Alexander, AIR 1968 SC 1165 (India).

Olga Tellis v. Bombay Municipal Corporation, AIR 1986 SC 180 (India).

Pameshkumar Nandlal Sahu v. High Power Committee, Writ Petition (Bombay High Court, 2018).

P.T. Munichikkanna Reddy v. Revamma, (2007) 6 SCC 59 (India).

Perry v. Clissold, (1907) AC 73 (P.C.) (appeal taken from Austl.).

Praveen Gupta v. Delhi Development Authority, W.P.(C) (Delhi High Court, July 3, 2026).

Ravinder Kaur Grewal v. Manjit Kaur, (2019) 8 SCC 729 (India).

Santosh Jaiswal v. CESC Ltd., (2008). SCC OnLine Cal (High Court of Calcutta, July 22, 2008).

Scroll.in. (2022, November 29). *Adani Group wins Dharavi redevelopment project with Rs 5,069 crore bid.* https://scroll.in

State of Haryana v. Mukesh Kumar, (2011) 10 SCC 404 (India).

Surendra Budhiram Patel (Verma) v. High Power Committee, Writ Petition (Bombay High Court, 2018).

Swarajya. (2022, November 29). Adani Realty wins Dharavi slum redevelopment project with bid of Rs 5,069 crore. https://swarajyamag.com

T. Anjanappa v. Somalingappa, (2006) 7 SCC 570 (India).

Copyright © CUKJLS 2026

ISSN (Online): 3139-4345
ISSN (Print): 3139-4485

Vali Mohammed Ibrahim Kherani v. Slum Rehabilitation Authority, 2023 SCC OnLine Bom (High Court of Bombay, Aug. 4, 2023).

Copyright © CUKJLS 2026