

**SLUM REHABILITATION AUTHORITY**

**BEFORE THE CHIEF EXECUTIVE OFFICER,  
SLUM REHABILITATION AUTHORITY**

**File No.SRA/ENG/2921/S/STGL/LOI**

Shah Colony Rahiwasi Sangh SRA CHS  
CTS No.1064(pt), Shah Colony,  
Kanjur Village Road, Kanjur (East),  
Mumbai - 400 042

... Applicant

V/s

1. M/s. Laxmi Construction  
4/11, Jay Mangalmurti CHS,  
Kanjur Village (East), Mumbai - 400 050
2. M/s. J.M. Bhawe & Associates Architect  
204, Kalpavruksha Tower,  
Dr. Lazaras Road, Chordai,  
Thane (West), Mumbai - 400 601



... Respondents

**ORDER**

**(Passed on -25/8/23)**

The present proceedings are initiated pursuant to Application of Applicant i.e. Shah Colony Rahiwasi Sangh SRA CHS dated 04.01.2022 in respect of SR Scheme on land CTS No.1064 (pt), Shah Colony, Kanjur Village Road, Kanjur (East), Mumbai - 400 042 on account of inordinate delay in implementation of subject SR Scheme. Hereinafter the abovesaid Slum Rehabilitation Scheme is referred to and called as "subject SR Scheme". In brief the facts which lead to the present proceedings are as under:

**FACTS IN BRIEF**

That the slum dwellers residing on land CTS No.1064 (pt), Shah Colony, Kanjur Village Road, Kanjur (East), Mumbai - 400 042


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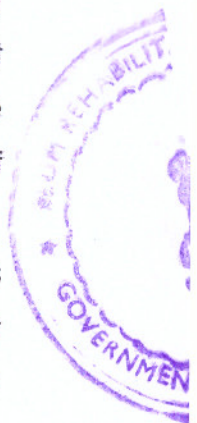


admeasuring 1790.00 sq. mtrs. formed the Applicant Society and resolved to redevelop the said land by implementing subject SR Scheme. The said land is owned by State Government. The Applicant Society appointed Respondent No.1 as Developer and Respondent No.2 as Architect for implementation of subject S.R. Scheme. The Respondent No.1 has submitted a proposal of subject SR Scheme with this Authority and same is duly accepted on 17.04.2017. The certified Annexure-II is issued by Competent Authority on 02.01.2018. The total slum dwellers are 87 out of which 53 slum dwellers have been declared eligible. However, thereafter the Respondent No.1 failed to obtain further permissions in respect of subject SR Scheme and the scheme is stand still.

Due to inordinate delay in implementation of subject SR Scheme, the Applicant society has submitted application dated 04.01.2022 for termination of Respondent No.1 as Developer of the subject SR Scheme. Pursuant to the said application, the Tahasildar-2/SRA submitted a note dated 08.04.2022 to initiate action u/s 13 (2) of the Maharashtra Slum Areas (I. C & R) Act, 1971 against Respondent No.1 of the subject SR Scheme. Accordingly notices were issued to all the parties i.e. Developer, Architect and Society of subject SR Scheme.

The matter was heard on various dates. Lastly, the matter is heard on 11.05.2023. On said day representatives of the Applicant Society remain present. The Advocate for Respondent No.1 Developer also remain present. Heard the parties and the matter was closed for order. Parties were directed to submit the written submission within 7 days.

  
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### ARGUMENT OF APPLICANT

The Applicant has earlier submitted application dated 04.01.2022 and requested for termination of Respondent No.1 as developer. In said application the Applicant has stated that the occupants on plot of land bearing CTS No. 1064(pt) of Village Kanjur have formed proposed Shah Colony Rahiwashi Sangh SRA CHS and appointed Respondent No.1 as Developer. The proposal of subject SR Scheme is submitted to Slum Rehabilitation Authority and the same is accepted on 17.04.2017. The Annexure-II to subject SR Scheme is issued on 02.01.2018 for 87 slum dwellers out of which 53 slum dwellers were held as eligible. It is the version of Applicant that one Mr. Jerry Francis Gomes was the original owner in respect of land under the subject SR Scheme and through registered Agreement for Sale dated 08.09.2008, the rights in respect of said land are transferred in favour of Shree Hari Developer. It is further version of Applicant that the said land is also declared as Slum Area through Gazette Notification dated 24.04.1996. The members of the Applicant society made an application dated 30.12.2011 u/s 14 (1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 for acquisition. The Deputy Collector had also granted opportunity to land owner to redevelop the said land but the land owner failed to do so.

According to Applicant after appointment of Respondent No.1 as developer, Respondent No.1 have executed individual as well as common consent in the year 2012 in favour Respondent No.1. After following due process of law, the Competent Authority passed an order dated 04.11.2015 to acquire the said land u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971. The said order dated 04.11.2015 is challenged by one Mr. Jerry Gomes & Ors. in Writ Petition No.1572 of 2016 and the same is pending till date. There is no

  
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restraining order passed in the said Petition till date. It is further version of Applicant that though the Annexure-I was certified in the year 2018, the Respondent No.1 failed to obtain Letter of Intent and other necessary permissions from Slum Rehabilitation Authority. There is delay on the part of Respondent No.1 for more than 11 years. So, the Applicant has lost trust and confidence in Respondent No.1 and therefore called for Special General Body Meeting on 16.12.2021 and unanimously decided to terminate the appointment of Respondent No.1 as developer of subject SR Scheme. According to Applicant from the year 2012 to 2023, no steps were taken by the Respondent No.1 for starting construction of subject SR Scheme. It is further version of Applicant that the Respondent No.1 is also not in financially sound position to complete the subject SR Scheme.

The Applicant has now submitted a letter dated 19.05.2023 through Chairman Mr. Gulabrao Babaji More stating that they are supporting the Respondent No.1. In said letter they have stated that due to political influence the present proceedings are initiated against Respondent No.1. It is further version of Applicant that the signatures of office bearers on earlier application submitted to this Authority were obtained by misrepresentation. According to Applicant there is no deliberate delay on the part of Respondent No.1 and the delay is occurred due to Court litigation and till date no Award is passed for acquired land. Further Applicant stated that through letter dated 23.02.2021, the Government has informed this Authority not to grant further permissions during the pendency of the said Writ Petition. Therefore, the Applicant has requested not to proceed with the action initiated u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971.



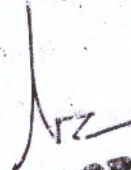


### ARGUMENT OF RESPONDENT NO.1

It is the version of Respondent No.1 that the land under subject SR Scheme is owned by private person and by passing resolution in General Body Meeting dated 18.09.2011, the Applicant has appointed them as developer to redevelop the said land. Since, the owner did not come forward for redevelopment, the Applicant submitted application for acquisition u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971. Pursuant to the said Application the notification for acquisition was issued on 04.11.2015. The said notification is challenged by land owner in Writ Petition No.1572 of 2016 and the same is pending till date. Even the Award is not passed in said acquisition proceedings.

According to Respondent No.1 in the year 2017, the Slum Rehabilitation Authority has accepted the Scheme and accordingly they have submitted Application for Letter of Intent on 05.02.2018. It is further version of Respondent No.1 that there was Covid Pandemic in March 2020 and the Government had imposed complete lockdown for two years. In the meanwhile through letter dated 23.02.2021, the Government had informed this Authority and directed not to take any steps for redevelopment. It is the case of Respondent No.1 that they have taken all steps for issuance of Letter of Intent but till date no Letter of intent was issued pursuant to letter dated 23.02.2021.

It is the version of Respondent No.1 that even the Respondent No.1 has taken all steps for amicable settlement in Court by filling Consent Terms dated 09.08.2019. The delay is not attributable to them. Therefore, the Respondent No.1 prayed to drop the proceeding initiated u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 and issue Letter of Intent to enable them to process with the development.

  
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### ISSUES AND DISCUSSIONS

From rival contentions, the issue that arise for determination of this Authority is as to whether there is nonperformance and inordinate delay in implementation of subject SR Scheme on the part of Respondents.

### REASONS

It is admitted fact that the proposal of subject SR Scheme is accepted in the year 2017 on land bearing CTS No.1064 (pt), Shah Colony, Kanjur Village Road, Kanjur (East), Mumbai - 400 042 admeasuring 1790.00 sq. mtrs. The subject land is owned by State Government. The record reveals that the certified Annexure-II is issued by Competent Authority in the year 2018 declaring 53 slum dwellers eligible out of total 87 slum dwellers. However, thereafter there is no progress in the subject SR Scheme and the scheme is stand still.

The developers implementing the SR Schemes are expected to complete the Scheme and rehabilitate the slum dwellers within reasonable time. This Authority is conscious of the delay occurred in implementation of subject SR Scheme. For action u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971, this Authority is required to verify the facts and cause of delay. Merely for the reason that the scheme is not completed within reasonable time the inference cannot be drawn of willful delay or incompetence of the developer. It is necessary to look into the factual aspect which resulted in delay in completion of the Scheme.

In present case the Applicant has earlier submitted an application dated 04.01.2022 for termination of Respondent No.1 as developer. According to Applicant one Mr. Jerry Francis Gomes was the original owner in respect of land under the subject SR Scheme and through registered Agreement for Sale dated 08.09.2008, the



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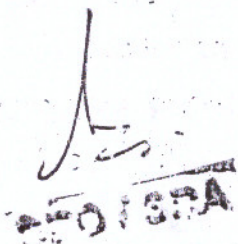
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rights in respect of said land are transferred in favour of Shree Hari Developer. It is further version of Applicant that the Competent Authority passed an order dated 04.11.2015 to acquire the said land u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971. The said order dated 04.11.2015 is challenged by one Mr. Jerry Gomes & Ors. in Writ Petition No.1572 of 2016 and the same is pending till date. According to Applicant though the Annexure-II was certified in the year 2018, the Respondent No.1 failed to obtain Letter of Intent and other necessary permissions from Slum Rehabilitation Authority. Therefore, through Special General Body Meeting dated 16.12.2021, the Applicant terminated the appointment of Respondent No.1 as developer of subject SR Scheme. It is further version of Applicant that the Respondent No.1 is also not financially capable of implementing the subject SR Scheme.

Latter on, the Applicant through letter dated 19.05.2023 of Chairman Mr. Gulabrao Babaji More requested this Authority not to proceed with the action initiated u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971. In said letter they have stated that due to political influence the present proceedings are initiated against Respondent No.1. It is further alleged by Applicant that the signatures of office bearers on earlier application submitted to this Authority were obtained by misrepresentation. The letter further states that there is no deliberate delay on the part of Respondent No.1 and the delay is occurred due to Court litigation and till date no Award is passed for acquired land. Further Applicant stated that through letter dated 23.02.2021, the Government has informed this Authority not to grant further permissions during the pendency of the said Writ Petition.

According to Respondent No.1 the proposal of subject SR Scheme is submitted by them after their appointment in General Body



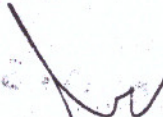


Resolution. Since, the owner did not come forward for redevelopment, the Applicant submitted application for acquisition u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971. Pursuant to the said Application the notification for acquisition was issued on 04.11.2015. The said notification is challenged by land owner in Writ Petition No.1572 of 2016 and the same is pending till date. Even the Award is not passed in said acquisition proceedings. It is further version of Respondent No.1 that there was Covid Pandemic in March 2020 and the Government had imposed complete lockdown for two years. In the meanwhile through letter dated 23.02.2021, the Government had informed this Authority and directed not to take any steps for redevelopment. It is the case of Respondent No.1 that they have taken all steps for issuance of Letter of intent but till date no Letter of intent was issued pursuant to letter dated 23.02.2021.

Now, it is necessary to verify as to whether there is nonperformance and inordinate delay in implementation of subject SR Scheme on the part of Respondent No.1. The record reveals that through letter dated 23.02.2021, the Government had informed this Authority and directed not to take any steps for redevelopment. It has sufficiently come on record that the present proceeding is initiated on application of Applicant society. But later on through letter dated 19.05.2023 the Applicant society has shown trust in Respondent No.1 and confirmed that the signatures of office bearers on earlier application submitted to this Authority were obtained by misrepresentation.

The record further reveals that there is copy of report dated 11.03.2022 of Assistant Registrar on record. The report reveals that the society is not registered with the co-operative department of Slum Rehabilitation Authority and there is no any application received in



  
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respect of arrears of rent. From the pleading of Applicant, it appears that they have no any grievance against Respondent No.1. So, it will not be just and proper to terminate the appointment of Respondent No.1 on account of alleged delay.

Considering these facts and circumstances this Authority is of opinion that there is no intentional delay on the part of Respondent No.1 and reasonable time needs to be given to Respondent No.1 for implementation of subject SR Scheme. Accordingly following order is passed.

#### ORDER

1. The proceedings initiated u/s 13(2) of Maharashtra Slum Areas (I, C & R) Act, 1971 against Respondent No.1 i.e. M/s. Laxmi Construction in respect of subject SR Scheme i.e. SR Scheme on land CTS No.1064 (pt), Shah Colony, Kanjur Village Road, Kanjur (East), Mumbai - 400 042 for Shah Colony Rahiwasi Sangh SRA CHS are hereby dropped.
2. The Respondent No.1 is directed to submit bar chart regarding completion of rehab component in time bound manner.
3. The Executive Engineer/SRA is directed to monitor the implementation of subject SR Scheme in time bound manner.

Date: 25 AUG 2023

Place: Mumbai

Chief Executive Officer  
Slum Rehabilitation Authority

No.: SRA/CEO order / Shah colony Rahiwasi sangh SRA an  
Date: 25 AUG 2023  
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Copy to:

1. Shah Colony Rahiwasi Sangh SRA CHS  
CTS No.1064 (pt), Shah Colony,  
Kanjur Village Road, Kanjur (East),  
Mumbai- 400 042



2. M/s. Laxmi Construction  
4/11, Jay Mangalmurti CHS,  
Kanjur Village (East), Mumbai - 400 050
3. M/s. J.M. Bhawe & Associates Architect  
204, Kalparuksha Tower,  
Dr. Lazarus Road, Chirai,  
Thane (West), Mumbai - 400 601
4. Tahsildar-3/SRA.
5. Dy. Chief Engineer/SRA
6. Executive Engineer (S-Ward)/SRA
7. Finance Controller/SRA
8. Joint. Registrar (Eastern Suburbs)/SRA
- ✓ 9. Information Technology Officer/SRA
10. Chief Legal Consultant/SRA

