

SLUM REHABILITATION AUTHORITY  
BEFORE THE CHIEF EXECUTIVE OFFICER  
SLUM REHABILITATION AUTHORITY,  
Bandra (East), Mumbai

File No.SRA/ENG/1477/GS/ML/LOI

Slum Rehabilitation Authority

...Applicant

V/s

1. Gautami Mata Nagar SRA CHS (Prop.)  
C.S. No. 24 (pt.), 70 (pt.),  
Plot No. 70,  
Scheme No. 58 B.G. Khair Marg,  
Gautami Mata Nagar,  
Worli, Mumbai – 400 018.
2. M/s Aadi Developers,  
9/10 Aadi House,  
Gokhale Road (North),  
Opp. Portuguese Church,  
Dadar (West), Mumbai – 400 028.
3. M/s Surendra J. Raut & Associates,  
Indira Kunj, 3<sup>rd</sup> floor, 163 – F,  
Dr. Ambedkar Road, Dadar (East),  
Mumbai – 400 014.



... Respondents

Sub.: Proceeding u/s 13(2) of the Maharashtra Slum Areas (I. C. & R.) Act, 1971.

**ORDER**

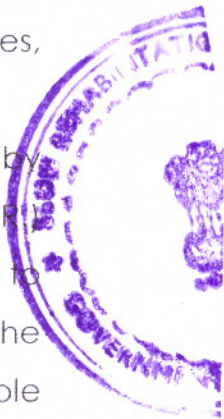
(Passed on 31/7/23)

These Suo-Moto proceedings are initiated in respect of Slum Rehabilitation Scheme of Worli Division of Worli Scheme No. 58 on land bearing C.S.No.24 (pt.), Plot No. 70 (pt.) for "Gautami Mata Nagar SRA CHS (Prop)", pursuant to the directions of Hon'ble High Court dated 10.01.2023 in Writ Petition (L) No.14017 of 2022, Nipun Thakkar V/s. CEO/SRA & Anr. Hereinafter the said scheme is referred to and called as subject S.R. Scheme. Brief facts which lead to the present proceeding are as under:

### **FACTS IN BRIEF**

The 81 slum dwellers residing on land C.S.No.24 (pt.), Plot No. 70 (pt.) of Worli Division of Worli Scheme No. 58 formed "Gautami Mata Nagar SRA CHS (Prop.)" and resolved to redevelop the land admeasuring 1430.47 sq. mtr. in their occupation. Accordingly, the Respondent No.1 was appointed as developer. Pursuant to appointment a proposal was submitted to this Authority and same was duly accepted on 28.06.2006. The land on which the subject S. R. Scheme is proposed is owned by MCGM. However thereafter there is no progress at all in subject S.R. Scheme as Slum Rehabilitation Authority through letter dated 29.03.2007 informed the Respondent No.2 that the subject S.R.Scheme cannot be processed further as per the Hon'ble High Court's order dated 31.07.2002 in Writ Petition No. 1152 of 2002. Through said order Hon'ble High Court directed that, "no new rehabilitation scheme be sanctioned without permission of Court in respect of open spaces which are reserved for gardens, parks, playgrounds, recreational spaces, maidans, no-development zones, pavements, roads and carriage ways".

The record reveals that there is order dated 12.10.2021 passed by the Secretary/SRA u/s 13(2) of the Maharashtra Slum Areas ( I. C. & R) Act, 1971 terminating appointment of Respondent No.2. Pursuant to this order Respondent No.2 filed Application No. 12 of 2022 before the Hon'ble Apex Grievance Redressal Committee and the Hon'ble Committee through order dated 05.08.2022 has set aside the impugned order dated 12.10.2021. Through said order the Hon'ble Apex Grievance Redressal Committee directed the Respondent No.2 to take appropriate steps for approval of Revised LOI as per DCPR 2034 in accordance with SRA norms. The Hon'ble Committee further



directed the Slum Rehabilitation Authority to grant further approvals as per rules, regulations and norms of Slum Rehabilitation Authority without further delay.

Since there were several dormant proposals this Authority took a decision to record these proposals. Accordingly, through Public Notice dated 20.04.2022, the 517 dormant proposals of S.R. Schemes were recorded. In list of 517 S.R. Schemes, the subject S.R. Scheme is at Sr. No.46. However, later on in Writ Petition (L) No.14017 of 2022 the Hon'ble High Court passed order dated 10.01.2023 and quashed Public Notice dated 20.04.2022 recording 517 S.R. Schemes. While quashing the Public Notice dated 20.04.2022 the Hon'ble High Court in paragraph No.13 of the order made following observations:

***"We make it clear that we have not restricted or constrained the powers of the SRA to take action in accordance with law, where justified. We have only quashed the impugned notice because it is entirely outside the frame of the law and is not issued in accordance with law."***

So in view of the observations of the Hon'ble High Court in paragraph No.13 of the order and subsequent development, the Executive Engineer has proposed the hearing through note dated 27.04.2023.

Accordingly, notices are issued to all concerned parties and matter is heard on 11.05.2023 & 23.05.2023. On 23.05.2023, representatives of Respondent No.1 Society remain present along with Adv. Swapnil Bangur. Shri Abhishek Malpani remain present for Respondent No.2. The parties were heard at length and matter was closed for order. Directions were given to parties to submit the written submissions within 7 days.

#### **ARGUMENT OF RESPONDENT NO.2**

According to Respondent No.2, occupants on the said land have formed "Gautami Mata Nagar SRA CHS (Prop.)" and through



General Body Resolution dated 02.01.2005 appointed them as developer for redevelopment of said land. Pursuant to appointment, they have submitted the proposal to this Authority for acceptance. The said land is owned by MCGM and reserved for garden and RG and the S. R. Scheme falls within the Coastal Area Regulation Zone. There are total 81 slum dwellers. The said Scheme was accepted on 28.06.2006 and after acceptance of LOI scrutiny fees the Respondent No.2 received a letter dated 29.03.2007 from Executive Engineer/SRA stating that the 'Scheme may not be processed further as per the Hon'ble High Court order dated 31.06.2002 in Writ Petition No.1152 of 2002'. According to Respondent No.2 in the year 2008 they have moved Notice of Motion (L) No.446 of 2008 in Writ Petition No.1152 of 2002 in Hon'ble High Court to join in the said Writ Petition. However the Hon'ble High Court dismissed all the Notice of Motions and Chamber Summons through order dated 07.08.2013. Thereafter through order dated 25.07.2014, the Hon'ble High Court has permitted the State Government for approval of new proposal with new policy in respect of redevelopment of PG reservation. The Respondent No.2 further contended that they prayed to this Authority to sanction the S. R. Scheme on such terms and conditions as the Hon'ble High Court deems fit and proper. In the year 2018, DCPR-2034 came into existence. Thereafter in the year 2019, the said Writ Petition came to be dismissed and there was no any restraining order.

According to Respondent No.2 after the communication dated 29.03.2007 informing that the Scheme is kept in abeyance in view of the pending Writ Petition No. 1152 of 2002 this Authority could not have initiated suo-moto proceedings u/s 13(2) of the Slum Act as there was no any complaint made by the Society or otherwise. The Respondent No.2 further contended that they have been wrongly terminated through order dated 12.10.2021, hence they challenged the said order



before Hon'ble Apex Grievance Redressal Committee vide Application No.12 of 2022. The Hon'ble Committee through order dated 05.08.2022 has set aside the impugned order dated 12.10.2021 and directed the Respondent No.2 to take appropriate steps for approval of Revised LOI as per DCPR 2034 in accordance with SRA norms. The Hon'ble Committee further directed the Slum Rehabilitation Authority to grant further approvals as per rules, regulations and norms of Slum Rehabilitation Authority without further delay.

According to Respondent No.2 through Public Notice dated 20.04.2022, the 517 dormant proposals of S.R. Scheme were recorded. In said list of 517 S.R. Schemes, the subject S.R. Scheme is at Sr. No.46. Subsequently the said Public Notice is set aside through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022 and therefore the submission of any fresh proposal is bad in law. It is further version of Respondent No.2 that they have taken all necessary steps for implementation of the subject SR Scheme. According to Respondent No.2 delay is not attributable to them but the same is occurred due to restraining order of Hon'ble High Court in Writ Petition No.1152 of 2002.

According to Respondent No.2 the society is supporting them as can be observed from the Undertaking dated 24.01.2007 of the Respondent No.1 Society stating that, "they undertake that all the members of the society are well aware that, the Scheme on plot under reference is partly/majority carrying reservation and cannot be developed till the finalization of W.P. No. 1152 of 2002 in Hon'ble High Court Mumbai. The Society undertake that they will abide by the final order passed by the Hon'ble High Court". On these ground the Respondent No.2 has prayed to drop the present proceeding initiated against them.

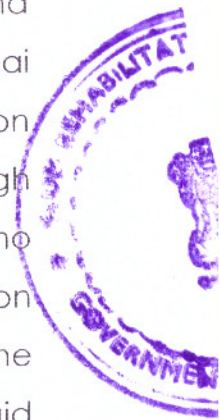


## **ISSUE**

From the facts and circumstance on record the issue that arises for determination of this Authority is as to whether there is non performance & inordinate delay on the part of Respondent No.2 in implementation of subject S.R. Scheme.

## **REASONS**

It is admitted fact that the proposal of subject S.R. Scheme is accepted on 28.06.2006 and the land owning Authority is MCGM. It is also not in dispute that the subject S.R. scheme is stand still and there is no further progress at all. In order to determine as to whether the Respondent No.2 is responsible for delay, it is necessary to consider the explanation put forth by Respondent No.2 for delay. It is submitted on behalf of Respondent No.2 that in the year 2002 the M/s. Citispace NGO has filed a Writ Petition No.1152 of 2002 in order to prevent the State Government as well as Slum Rehabilitation Authority and M.C.G.M. from legitimizing encroachment on open space in Mumbai and it was prayed that sanction/approval granted to proposals on RG/PG land should be set aside. In said Writ Petition the Hon'ble High Court on 31.07.2002 passed order directing that until further orders no new S.R. Schemes to be sanctioned without permission of the Court on open space reserved for Garden, Park and Play Ground etc. The Advocate for Respondent No.2 further submitted that the said restraining order continued for considerable period and there was no modification. Thereafter on 25.07.2014 another order came to be passed wherein the Hon'ble High Court has clarified that interim order dated 31.07.2002 shall not come in the way of the State Government for making any new scheme or evolving new policy in this behalf. Further Hon'ble High Court directed that in the event of any such new policy or scheme, the same should not be implemented unless it is



placed on the record of Hon'ble High Court in pending proceeding i.e. Writ Petition No.1152 of 2002.

After the order dated 25.07.2014 the State Government formulated Development Control and Promotion Regulation (DCPR) 2034 on 08.05.2018 and same were published in Government Gazette on 01.09.2018 (with some provisions notified later on 13.11.2018). In consonance with the directions of Hon'ble Court in order dated 25.07.2014 the DCPR 2034 was placed on record by Slum Rehabilitation Authority in Writ Petition No.1152 of 2002 on 13.12.2018.

The Respondent No.2 submitted that they always wanted to proceed with the S. R. Scheme, so they immediately submitted a letter dated 25.11.2014 to Executive Engineer/SRA to accept their proposal as per the directions of Hon'ble High Court in order dated 25.07.2014 in Writ Petition No. 1152 of 2002 showing their willingness to provide safeguards as mentioned in the said order. According to Respondent No.2, the Respondent No.1 has been supporting them right from the inception and have submitted along with them various letters/representations to the Authorities explaining the difficulties that they were facing in implementation of the said S.R.Scheme.

The Respondent No.2 further submitted that after dismissal of Writ Petition on 18.07.2019 the Respondent No.2 was in process of taking further steps but due to Covid Pandemic and nationwide Lockdown, he could not take the necessary steps. Previously the proceedings u/s 13(2) of the Maharashtra Slum Areas (I. C.& R.)Act, 1971 were initiated against Respondent No.2 & the Secretary/SRA through order dated 12.10.2021 terminated their appointment as Developer of subject S.R. Scheme. Pursuant to said order the Respondent No.2 filed Application No.12 of 2022 before Hon'ble Apex Grievance Redressal Committee and AGRC through order dated 05.08.2022, set aside the order dated 12.10.2021 passed u/s 13(2) of the Slum Act. Through said order the



Hon'ble Apex Grievance Redressal Committee directed this Authority to grant further approval's to subject S. R. Scheme. There is observation of Hon'ble Apex Grievance Redressal Committee at page No.10 of said order that there is no any Application filed by Society against the Developer and Society do not have any grievance against the Respondent No.2. It is pertinent to note that during the hearing held on 23.05.2022, the representative of Respondent No.1 Society remain present and directions were given to submit their say within 7 days. In spite of said directions Respondent No.1 failed to submit any say on record. From such conduct of Respondent Society there is sufficient room to conclude that Respondent No.1 is not interested in termination of Respondent No.2. The contentions of Respondent No. 2 remain uncontested. Record further reveals that the proposal of subject S. R. Scheme was in list of 517 recorded schemes. In the meanwhile without any hearing or show cause notice their proposal was suddenly recorded by Slum Rehabilitation Authority through public notice dated 20.04.2022. Ultimately, the Hon'ble High Court through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022 quashed the public notice dated 20.04.2022. On careful consideration of these facts and circumstance this Authority is of opinion that the delay that occurred in subject S.R. Scheme is not due to non-performance on the part of Respondent No.2 and the delay cannot to be attributed to them.

After considering the orders of Hon'ble High Court in Writ Petition No.1152 of 2002 and the order dated 05.08.2022 of Hon'ble Apex Grievance Redressal Committee in Application No.12 of 2022 and the other circumstances on record this Authority has come to conclusion that the Respondent No.2 was prevented from taking further steps due to order of Hon'ble High Court which is situation beyond their control. The delay is not attributable to Respondent No.2. Since the Respondent No.2 is willing to complete the scheme it will be just and proper to give



them opportunity to implement the subject S.R. Scheme. Accordingly, this Authority proceed to pass following order –

**ORDER**

1. The proceeding against Respondent No.2 i.e. M/s. Aadi Developers are hereby dropped.
2. The Respondent No.2 is directed to take appropriate steps for approval of Revised LOI as per DCPR 2034 in accordance with SRA norms.
3. The Respondent No.2 is directed to submit bar chart regarding time bound implementation of the subject S. R. Scheme.

  
**Chief Executive Officer  
Slum Rehabilitation Authority**

Place: - Mumbai

Date: - 31 JUL 2023

No.SRA/CEO/13(2)/ Gautami Mata CHS (Prop.)/ 46 . /2023

Date: - 31 JUL 2023

Copy to:

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Dr. Ambedkar Road, Dadar (East),



Mumbai – 400 014.

4. Deputy Chief Engineer/SRA
5. Executive Engineer, G/S/ SRA
6. Competent Authority-1/SRA
7. DSLR/SRA
8. Tahsildar-1/SRA
9. Finance Controller/SRA
10. Chief Legal Consultant/SRA
11. Joint Registrar (W.S)/SRA
- ✓ 12. IT Office/SRA

