



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

M/s. Western Habitat  
Centrum House, Level 7,  
Vidyanagari Marg, CST Road,  
Kalina, Santacruz (East),  
Mumbai - 400 098

... Applicant

V/s

1. Mr. Taher Abdulhusein Tambawala &  
Shabbir Esmail Millwala  
Through their Advocate Pandya & Co.  
1210A, 'C' Wing, ONE BKC, 'G' Block,  
Bandra Kurla Complex, Bandra (East),  
Mumbai - 400 051.
2. Mr. Rajendra P. Barde, Managing Director,  
Truly Creative Developers Pvt. Ltd.,  
66, Rajendra Nagar, Dattapada Road,  
Borivali (East), Mumbai - 400 066.
3. CA Rajan Garg,  
Insolvency Professional  
Flat No.202, Wing B, 2<sup>nd</sup> Floor,  
Safal Twins, Block Panjabwadi,  
Sion Trombay Road, Deonar,  
Mumbai - 400 088.

... Respondents/  
Objectioners

**Sub.: Proceedings u/s 3C(1) of the Maharashtra Slum Areas (I, C & R)  
Act, 1971.**

**ORDER**  
**(Passed on - 29/02/2024)**

These proceedings are initiated pursuant to application of Applicant i.e. M/s. Western Habitat for "Rajendra Kunj SRA CHS Ltd." dated 07.10.2021 for declaration of land bearing CTS Nos.87, 87/1 to 13, 88(pt), 88/94(pt), 88/95(pt), 88/98(pt), 88/99 to 107, 88/129(pt), 88/130 to 192, 88/193, 88/194(pt), 88/195(pt), 88/196 to 199, 88/509 to 515 of Mauje Magathane, Taluka Borivali, admeasuring

14141.50 sq. mtrs. as "Slum Rehabilitation Area" u/s 3C(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971. In brief the facts which lead to the present proceedings are as under;

**FACTS IN BRIEF**

The Applicant submitted the present application u/s 3C(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 in respect of land bearing CTS Nos.87, 87/1 to 13, 88(pt), 88/94(pt), 88/95(pt), 88/98(pt), 88/99 to 107, 88/129(pt), 88/130 to 192, 88/193, 88/194(pt), 88/195(pt), 88/196 to 199, 88/509 to 515 of Mauje Magathane, Taluka Borivali, admeasuring 14141.50 sq. mtrs. Alongwith application the Applicant submitted copies of PR Card, slum plan, etc. Pursuant to said application, the Executive Engineer/SRA through letter dated 25.10.2021 has sought remarks of the District Superintendent of Land Records/SRA. Accordingly the District Superintendent of Land Records has submitted report to the Executive Engineer alongwith GIS plan on 22.12.2021. As per his report land CTS Nos.87, 87/1 to 13 of Mauje Magathane, Taluka Borivali, admeasuring 14141.50 sq. mtrs. is liable for declaration as "Slum Rehabilitation Area". Hereinafter the above said land is referred to and called as "said land".

The District Superintendent of Land Records and Executive Engineer has jointly visited the site on 12.01.2022. At the time of visit they noticed that there were some slum structures and same were kaccha & pakka. Some of the structures were demolished by developer for redevelopment of said land and there are some buildings situated on said land. Some of the structures are of 1<sup>st</sup> floor. The structures are in use for residential and commercial purpose. The slum structures are situated closely and in congested manner. The internal roads are narrow. There is lack of proper sunlight and ventilation. Lastly, the District Superintendent of Land Records and Executive Engineer concluded that it will be just and proper to declare the said land as Slum Rehabilitation Area.

Pursuant to the site visit of District Superintendent of Land Records and Executive Engineer, a Public Notice dated 27.04.2022 was issued by this Authority. The Public Notice was given in English and





Marathi daily newspapers in "Mid-Day" and "Vruttamanas" on 29.04.2022 inviting the objections, if any. The Panchanama dated 29.04.2022 confirms that the Public Notice is affixed at conspicuous place on the said land on 27.04.2022. The Public Notice is also displayed on official website of Slum Rehabilitation Authority on 28.04.2022. The objections are received from Respondents/Objectioners.

Notices were issued to the Respondents as well as Applicant and matter is heard on 04.01.2024. On said day Applicant remain present alongwith Adv. Chirag Balsara. On behalf of Respondent No.2, Advocate Umesh Kurund remain present. Mr. Rajan Garg, Resolution Professional remain present for Respondent No.3. All the parties are heard at length and matter was closed for order.

#### **ARGUMENT OF APPLICANT**

According to Applicant, the Respondent No.2 & 3 has no locus to file any objection for declaration of said land as Slum Rehabilitation Area as they are not owner of said land or their names are not reflected in PR Card. It is further version of Applicant that the Hon'ble Apex Grievance Redressal Committee through order dated 25.10.2019 in Application No.112 of 2019 has terminated the appointment of M/s. Truly Creative Developers Pvt. Ltd. and liberty is granted to society to appoint new developer by holding Special General Body Meeting in presence of officers of Co-operative departments of SRA. Pursuant thereto the Applicant is appointed as new developer through General Body Resolution dated 09.12.2019. The Hon'ble Apex Grievance Redressal Committee further directed to acquire the said land u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971. The order of Apex Grievance Redressal Committee dated 25.10.2019 is challenged by M/s. Truly Creative Developers Pvt. Ltd. in Hon'ble High Court in Writ Petition (L) No.3512 of 2019 and there is no any interim relief granted to them. On these ground the Applicant has prayed to declare the said land as Slum Rehabilitation Area.



### **ARGUMENT OF RESPONDENT NO.1**

According to Respondent No.1, they are the owners of said land by virtue of the Indenture of Conveyance dated 10.12.1945. It is further version of the Respondent No.1 that their ancestors are owners of said land and their names are appearing in the PR Card and therefore the Applicant has no right to make application for declaration of said land as Slum Rehabilitation Area. According to Respondent No.1 being the land owners of said land they have the preferential right to develop the said land. On these grounds the Respondent No.1 seeks rejection of said application.

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

According to Respondent No.2, he is the owner of said land by virtue of registered Deed of Conveyance dated 29.03.1997. The said land is already declared as Slum through notification dated 02.02.1986 and thereafter they have implemented SR Scheme on said land. As per approvals they have constructed the buildings. After implementing the SR Scheme on said land there is no need for fresh declaration of Slum again and therefore the notice is illegal and bad in law. According to Respondent No.2 they have initiated Arbitration proceedings against Applicant in Arbitration Petition No.370 of 2019 in which Arbitrator has granted status quo and said proceedings are pending for final disposal. It is the case of Respondent No.2 that order of termination of his appointment as developer is also under challenge in Hon'ble High Court in Writ Petition (L) No.3512 of 2019. On these grounds the Respondent No.2 seeks rejection of said application.

### **ARGUMENT OF RESPONDENT NO.3**

According to Respondent No.3, M/s. Truly Creative Developers Pvt. Ltd. is the owner of said land. It is further version of Respondent No.3 that earlier on many occasions the said Company was admitted into insolvency as per provisions of the Insolvency and Bankruptcy Code, 2016 with effect from 11<sup>th</sup> November, 2023. The Corporate Insolvency Process is at advance stage and resolution plans are invited and due to initiation of CIRP proceeding under the Insolvency and Bankruptcy Code, 2016, a moratorium is imposed as per section 14(1)





of the Insolvency and Bankruptcy Code, 2016. So no proceedings will be initiated with respect to said land. Further as per section 238 of the Insolvency and Bankruptcy Code, 2016, the provisions of said Code supersede and override the provisions of any other law. On these grounds the Respondent No.3 seeks rejection of said application.

### **ISSUES**

From rival contentions the issue that arise for determination of this Authority is as to whether requisite conditions for declaration of said land as Slum Rehabilitation Area u/s 3C(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 exist at site and Whether the said land is liable to be declared as Slum Rehabilitation Area u/s 3C of the Maharashtra Slum Areas (I, C, & R), Act, 1971?

### **DISCUSSION**

There is copy of order of Hon'ble Apex Grievance Redressal Committee dated 25.10.2019 in Application No.112 of 2019 on record. From said order it appears that initially the SR Scheme on said land is implemented for Rajendra Kunj SRA CHS Ltd. through Respondent No.2 and Respondent No.2 is the owner of said land. The said land is declared as Slum u/s 4(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 and Competent Authority issued Annexure-II for total 710 slum dwellers, out of which 681 were held as eligible. Subsequently SR Scheme of Rajendra Kunj SRA CHS Ltd. is amalgamated with already approved Scheme on MHADA land bearing CTS No.88(pt), 88/104 to 107, 88/137 to 139, 88/152 to 201, 88/509 to 515 of Village Magathane. Accordingly amalgamated Letter of Intent was issued on 18.01.2016. There were total 5 buildings proposed out of which following buildings are constructed;

1. Composite Building No.2 (Wing A, B, C, D): Plans were approved on 29.11.1996. Wing B & C were proposed for rehab and Wing A & D were sale wings. Plinth CC for composite building was issued on 18.12.1996. For wing B & C Full C.C. was issued on 12.03.1998 and for wing D & A Full C.C. was issued on 25.08.1998 and 22.09.1999 respectively. O.C. for wing B & C was issued on 18.07.1998 and 19.07.1999 respectively for 105 rehab tenements and 05 commercial

tenements. O.C. for wing D was issued upto 4<sup>th</sup> floor. Developer has permitted unauthorized occupation to Flat Purchasers on floors above 4<sup>th</sup> floor.

2. Rehab Building No.3 (Wing A & B): IOA was issued on 24.1.2000 and plinth C.C. was issued on 22.05.2000. For wing B & A Full C.C. was issued on 30.07.2002 & 16.12.2003 respectively for G + 7 floors. O.C. was issued upto 4<sup>th</sup> floor of wing B for 112 rehab and 02 commercial T/S and other floors are occupied unauthorisely. Developer has constructed 8<sup>th</sup> floor beyond permission in the building.

3. Rehab Building No.7: Earlier, IOA was issued on 22.01.1998 for Building No.7 as a sale building and amended IOA was issued on 09.12.1999. Later, on 24.09.2003 as per amended IOA said building was converted in 8 wings comprising wing A, B, C, D, as rehab tenements and wing E, F, G, H for sale tenements and wing I for commercial tenements. Thereafter, on 16.12.2003, O.C. was issued for rehab wing A of Gr+7 comprising 68 Rehab tenements.

The then Chief Executive Officer/SRA through order dated 07.03.2019 dropped the proceedings initiated against the Respondent No.2 u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971. The said order dated 07.03.2019 was challenged by Rajendra Kunj SRA CHS Ltd. before the Hon'ble Apex Grievance Redressal Committee in Application No.112 of 2019 and the Hon'ble Apex Grievance Redressal Committee through order dated 25.10.2019 terminated the appointment of Respondent No.2 as developer. The Hon'ble Apex Grievance Redressal Committee further directed the Slum Rehabilitation Authority to acquire the said land u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971.

There is copy of Fact Sheet of SR Scheme on record. From fact sheet it appears that the Applicant is appointed as new developer by Rajendra Kunj SRA CHS Ltd. as per order of the Hon'ble Apex Grievance Redressal Committee dated 25.10.2019. The Respondent No.2 M/s. Truly Creative Developers Pvt. has filed Writ Petition (L) No.3512 of 2019 in Hon'ble High Court challenging the said order of Apex Grievance Redressal Committee dated 25.10.2019 and sought interim





relief and same has been rejected by the Hon'ble High Court through order dated 18.12.2019. The official website of Hon'ble High Court reveals that the said Writ Petition is rejected due to non-removal of objections since the year 2019 by the Petitioner and the order of termination of Respondent No.2 has attained finality.

The Applicant has filed the present Application u/s 3 C(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971. It is contended by the Applicant that since the said land is declared as Slum Area u/s 4(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971, hence as per Notification published in official Gazette of Govt. of Maharashtra on 23.05.2022 it is deemed to be Slum Rehabilitation Area. In order to comply with the directions of Hon'ble Apex Grievance Redressal Committee dated 25.10.2019 the matter is heard by this Authority and after hearing the parties the proposal of acquisition of said land is sent to Housing Department on 23.08.2023. Through letter dated 27.12.2023, the Desk Officer, Housing Department has informed to this Authority that they have obtained the opinion of Law & Judiciary Department. The Law & Judiciary department has opined to Housing Department to first to declare the said land as Slum Rehabilitation Area as per section 3C of the Slum Act before acquiring the said land u/s 14(1) of the Slum Act. Hence it necessitate to declare the said land as Slum Rehabilitation Area before acquisition.

The record reveals that District Superintendent of Land Records has submitted report dated 22.12.2021, wherein it is mentioned that land bearing CTS No.87, 87/1 to 13 of Mauje Magathane, Taluka Borivali, admeasuring 14141.50 sq. mtrs. is liable to be declared as "Slum Rehabilitation Area". The District Superintendent of Land Records has also submitted plan alongwith report dated 22.12.2021 stating the slum occupied portion as well as some constructed buildings. The District Superintendent of Land Records has given remark that by considering the slum map of Annexure-II issued by Deputy Collector (Enc. & Rem.), there appears to be slum structures on said land.



The report of District Superintendent of Land Records and Executive Engineer dated 12.01.2022 clearly states that conditions prevailing on said land are like slum and area lacks basic amenities. They further observed that some of the structures were demolished by developer for redevelopment of said land and there are some buildings situated on said land. The structures are in use for residential and commercial purpose. The slum structures are situated closely and in congested manner. The internal roads are narrow. There is lack of proper sunlight and ventilation. This Authority do not find any reason to discard the site visit report dated 12.01.2022.

It is pertinent to note that Respondent No.1 & 2 are claiming to be owner of the said land by virtue of the Conveyance Deeds. It is further version of Respondent No.2 that as per approvals they have constructed the buildings and after implementing the SR Scheme on said land there is no need to declare the said land as Slum Rehabilitation Area.

In this regard, the section 3C of the Maharashtra Slum Areas (I, C & R) Act, 1971 speaks that after publication of Slum Rehabilitation Scheme, the Chief Executive Officer on being satisfied about the circumstances in respect of any land, whether or not previously declared as Slum Area, shall after giving the notice to land owners may declare the said land as Slum Rehabilitation Area. In present case the SR Scheme on said land is implemented through M/s. Truly Creative Developers Pvt. Ltd. and its appointment is duly terminated by the Hon'ble Apex Grievance Redressal Committee through order dated 25.10.2019 in Application No.112 of 2019. The Hon'ble Apex Grievance Redressal Committee further directed to acquire the said land u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971.

The Respondent No.3 is Resolution Professional appointed for Respondent No.2 Company. It is further version of Respondent No.3 that the said Company was admitted into insolvency Resolution Process as per provisions of the Insolvency and Bankruptcy Code, 2016 with effect from 11<sup>th</sup> November, 2023. It is further version of Respondent No.3 that due to initiation of CIRP proceeding under the Insolvency and Bankruptcy Code, 2016, a moratorium is imposed as per section 14(1)





of the Insolvency and Bankruptcy Code, 2016, so no proceedings initiated with respect to said land. Further as per section 238 of the Insolvency and Bankruptcy Code, 2016, the provisions of said Code supersede and override the provisions of any other law.

The Respondent No.2 in his submission dated 24.05.2022 has stated that the said land is declared as Slum through Notification dated 02.02.1986. From said contention there is sufficient room to conclude that the said land is occupied by slum dwellers since long. According to Respondent No.3 in view of pending proceeding before the National Company Law Tribunal, no any action should be taken in respect of said land. Though the said land is owned by Corporate Debtor M/s. Truly Creative Developers Pvt. Ltd., the State Government is acquiring the said land for public purpose. The present proceedings are necessitated for the purpose of statutory acquisition. The amount of compensation to be paid to the land owner can be kept at the disposal of the National Company Law Tribunal's proceedings. So considering these facts and the report of District Superintendent of Land Records/SRA as well as slum plan it will be just and proper to declare the said land as Slum Rehabilitation Area u/s 3C(1) of the Maharashtra Slum Areas (I, C & R), Act, 1971. Accordingly following order is passed;

**ORDER**

1. The Application of Applicant M/s. Western Habitat for "Rajendra Kunj SRA CHS Ltd." dated 07.10.2021 is hereby allowed.
2. The land bearing CTS Nos.87, 87/1 to 13 of Mauje Magathane, Taluka Borivali, admeasuring 14141.50 sq. mtrs. is hereby declared as Slum Rehabilitation Area u/s 3C(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971.

SRA/ED/OW/2024/11371

Date: 29 FEB 2024  
Place: Bandra (E), Mumbai.

  
Chief Executive Officer  
Slum Rehabilitation Authority

Copy to:

1. M/s. Western Habitat  
Centrum House, Level 7,  
Vidyanagari Marg, CST Road,  
Kalina, Santacruz (East), Mumbai - 400 098

2. Mr. Taher Abdulhusein Tambawala & Shabbir Esmail Millwala  
Through their Advocate Pandya & Co.  
1210A, 'C' Wing, ONE BKC, 'G' Block,  
Bandra Kurla Complex, Bandra (East),  
Mumbai - 400 051.
3. Mr. Rajendra P. Barde, Managing Director,  
Truly Creative Developers Pvt. Ltd.,  
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Borivali (East), Mumbai - 400 066.
4. CA Rajan Garg,  
Insolvency Professional  
Flat No.202, Wing B, 2<sup>nd</sup> Floor,  
Safal Twins, Block Panjabwadi,  
Sion Trombay Road, Deonar,  
Mumbai - 400 088.
5. Dy. Chief Engineer/SRA.
6. Executive Engineer (R/C Ward)/SRA.
7. Financial Controller/SRA
8. Jt. Registrar (W.S.)/SRA
- ✓ 9. Information Technology Officer/SRA.
10. Chief Legal Consultant/SRA.