



SLUM REHABILITATION AUTHORITY

BEFORE THE CHIEF EXECUTIVE OFFICER,  
SLUM REHABILITATION AUTHORITY

File No.R-S/MCGM & STGOVT/0004

Jay Bharat SRA CHS (Prop.) &  
Prabhat Chawl SRA CHS (Prop.)  
CTS No.471/A(pt), 478(pt), 481 (pt)  
& 483(pt) of Village Kandivali at 90 Feet Road,  
Jagdish Shetty Marg, Ganesh Nagar,  
Kandivali (West), Mumbai - 400 067

... Applicants

V/s

1. M/s. S.B. Realty.  
Shop No.2, Om Shri Labh CHS, T.P.S. Road,  
Borivali (West), Mumbai - 400 092
2. M/s. Sky Tech Consultants,  
A-301, Agarwal B2B Center, D'Monte Lane  
Near Malad Industrial Estate, Orlem,  
Above Silver Oak Hotel, Kachpada,  
Malad (West), Mumbai - 400 064
3. M/s. Shreeya Developers,  
B/4, Rizvi Park, B-Wing, Near Reliance Mall,  
S.V. Road, Santacruz (West),  
Mumbai - 400 054

... Respondents

... Intervener/  
Respondent

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

ORDER

(Passed on - 14.02.2024)

These proceedings are initiated in respect of Slum Rehabilitation Scheme on land CTS No.471/A(Pt), 478(Pt), 481(Pt) & 483(Pt) of Village Kandivali at 90 feet Road, Jagdish Shetty Marg, Ganesh Nagar,

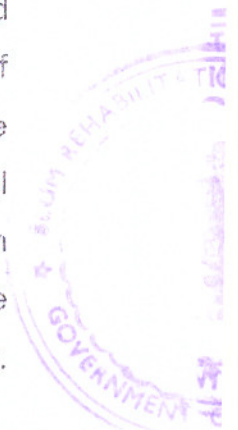
CEO / SRA

Kandivali (West), Mumbai – 400 067 for "Jay Bharat SRA CHS (Prop.) & Prabhat Chawl SRA CHS (Prop.)" pursuant to the application of Applicants dated 28.01.2022 on account of inordinate delay and non-performance. Hereinafter the above said Slum Rehabilitation Scheme is referred to and called as "subject SR Scheme". In brief the facts which lead to present proceedings are as under;

**BRIEF FACTS:**

The slum dwellers residing on plot of land bearing CTS No.471/A(Pt), 478(Pt), 481(Pt) & 483(Pt) of Village Kandivali formed Applicant societies i.e. Jay Bharat SRA CHS (Prop.) & Prabhat Chawl SRA CHS (Prop.) and resolved to redevelop the land admeasuring 3189.08 sq. mtrs. in their occupation. Accordingly, General Body Meeting of societies were held and Respondent No.1 was appointed as developer. Pursuant to appointment a proposal was submitted to this Authority and same was duly accepted on 14.10.2011. The said land on which the subject SR Scheme is proposed is owned by the MCGM & State Government. However thereafter there is absolutely no progress at all in subject SR Scheme. Even after lapse of more than 12 years, the Respondent No.1 failed to obtain the certified Annexure-II.

The note of Deputy Collector (Special Cell)/SRA dated 11.12.2023 is on record. From said note it appears that 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 Slum Rehabilitation Schemes were recorded. In said list of 517 Slum Rehabilitation Schemes, the subject Slum Rehabilitation Scheme is at Sr. No.501. This Authority has also issued Guidelines dated 08.06.2023 for holding General Body Meeting of society in respect of those 517 recorded proposals. After recording the proposal of Respondent No.1, the Applicant societies have held General Body Meeting on 03.08.2022 in presence of authorized officer of Slum Rehabilitation Authority. In said Meeting the 125 slum dwellers were present and they appointed one M/s. Shreeya Developers as developer.





In said General Body Meeting a resolution is passed by slum dwellers appointing Mr. Jamil Ahmed Bakedar Churihar as Chief Promoter of Jay Bharat SRA CHS & Mr. Mohammed Abubakar Mohammed Hanif Khan as Chief Promoter of Prabhat Chawl SRA CHS.

The Respondent No.1 has filed Writ Petition No.11526 of 2022 in Hon'ble High Court challenging the Public Notice dated 20.04.2022 to the extent of subject SR Scheme. In said Writ Petition the Hon'ble Court through order dated 27.10.2023 directed this Authority to proceed with section 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 proceedings on urgent basis.

The record further reveals that the Hon'ble High Court has quashed the Public Notice dated 20.04.2022 in Writ Petition (L) No.14017 of 2022 Nipun Thakkar V/s. CEO/SRA & Anr. It is pertinent to note that while quashing the Public Notice dated 20.04.2022, the Hon'ble High Court in order dated 10.01.2023 in para no.13 have made following observation:

***"13. 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 not in accordance with law".***

The notices of hearing were issued to Applicants as well as Respondents. Accordingly hearing was held on various dates. On 28.12.2023, office bearers of Applicant Societies remain present alongwith their Advocate Shri Santosh Pathak. Advocate Shashank Borade appeared on behalf of Respondent No.1. Advocate Nimish Lotlikar appeared Suo Moto on behalf of Intervener. The parties were heard at length and matter was closed for order. Directions were given to parties to submit their written submissions within seven days.

#### **AGRUMENT OF APPLICANT SOCIETIES**

There appears to be two fractions in Applicant societies. One fraction is led by new Managing Committee through Mr. Jamil Ahmed Bakedar Churihar, Chief Promoter of Jay Bharat SRA CHS (Prop.) & Mr. Mohammed Abubakar Mohammed Hanif Khan, Chief Promoters of Prabhat Chawl SRA CHS (Prop.) and another fraction is led by old



Managing Committee through Mr. Fernandes Renaldo Anthony, Chairman of Jay Bharat SRA CHS (Prop.) & Mr. Mohammed Hasan Chuhan Gujar, Chairman of Prabhat Chawl SRA CHS (Prop.). Both fractions have submitted their separate written submissions. The contentions of both fractions regarding termination of Respondent No.1 is different. It is the version of fraction led by New Managing Committee of Applicant Societies that the Respondent No.1 has submitted the proposal on 14.10.2011. The period of almost more than 12 years has passed. Due to failure of Respondent No.1 to rehabilitate the slum dwellers, the proposal was recorded in the list of 517 dormant proposals through Public Notice dated 20.04.2022. In said list the subject SR Scheme was at Sr. No.501. It is further version of New Managing Committee that after recording the proposal of subject SR Scheme, they appointed M/s. Shreeya Developers as their new developer in place of Respondent No.1. On the other hand the fraction led by old Managing Committee of Applicant societies contended that the non-cooperative slum dwellers have formed new Managing Committee and appointed rival developer as new developer. According to Old Managing Committee they have full faith and trust in Respondent No.1 for implementing subject SR Scheme.

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

It is the version of Respondent No.1 that the Applicant Societies have appointed them as developer of subject SR Scheme. There are total 186 slum dwellers residing on said land without basic amenities like road, drainage, electricity, water, etc. The proposal of subject SR Scheme is submitted to this Authority in the year 2011 and the requisite LOI scrutiny fees were also paid by them. Thereafter the proposal of Respondent No.1 is forwarded to Competent Authority for certification of Annexure-II. It is further version of Respondent No.1 that through letter dated 31.03.2012 the Competent Authority requested all the members of Applicant societies to remain present for biometric survey. But due to opposition of non-cooperative slum dwellers to carry out the biometric





survey the proposal of Annexure-II is returned to this Authority on 28.02.2013. It is further version of Respondent No.1 that after obtaining individual consents of 104 slum dwellers by them, this Authority again forwarded the proposal for certification of Annexure-II to Competent Authority on 16.04.2012. Again the said proposal is return back to this Authority on 02.01.2016 due to want of cooperation of slum dwellers.

It is the version Respondent No.1 that they are ready and willing to implement the subject SR Scheme but due to non-cooperation of disgruntled members of Applicant societies, the proposal cannot be processed further. There is no delay on their part but the same is occurred due to non-cooperation on the part of disgruntled slum dwellers. Further this Authority has recorded 517 dormant proposals through Public Notice dated 20.04.2022. In said list of 517 Schemes, the subject SR Scheme is at Sr. No.501. The Respondent No.1 is ready and willing to pay two years rent in advance as per circular no.210. On these grounds the Respondent No.1 has prayed to drop present proceedings initiated against them.

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

The Intervener has filed the present application for joining them as party Respondent in present proceedings. According to Intervener the subject SR Scheme is submitted in the year 2011 by Respondent No.1, however since no steps were taken by Respondent No.1, therefore the subject SR Scheme is recorded at Sr. No.501 in Public Notice dated 20.04.2022. The said Public Notice was quashed and set aside by Hon'ble High Court through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022 and liberty was granted to this Authority to take action in accordance with law. This Authority has also issued Guidelines dated 08.06.2022 for resubmission of proposal of 517 recorded SR Schemes, however the Respondent No.1 did not bother to resubmit subject SR Scheme and therefore the Applicant societies have lost faith in Respondent No.1 and through General Body Resolution dated



*[Handwritten signature]*

CEO / SRA



03.08.2022 terminated the appointment of Respondent No.1 as developer.

It is further version of Intervener that the old Committee of Applicant societies also dissolved and new Committee came to be formed by members of Applicant societies. The said newly appointed societies appointed Intervener as new developer. According to Intervener they are the reputed developer in the city of Mumbai and they have undertaken various proposals in the vicinity of subject SR Scheme. Further they have completed the adjoining proposal with good quality construction and without any default of rent. They also completed adjoining SR Scheme namely Shree Ganesh SRA CHS Ltd. in the year 2021 and rehabilitated maximum slum dwellers.

According to Intervener there is delay on the part of Respondent No.1 for almost 11 years and in the meanwhile Respondent No.1 filed Writ Petition No.11526 of 2022 without enumerating any reasons for the delay of 11 years. In said Petition there was a status quo order granted by Hon'ble Court which was delaying the subject SR Scheme, so they filed Intervention Application No.19391 of 2022 in said Writ Petition. Lastly the said Writ Petition was listed on 27.10.2023 whereby the Hon'ble Court directed this Authority to decide 13(2) application of Applicant societies expeditiously. The Intervener is ready and willing to pay two years rent in advance as per circular no.210. On these grounds the Intervener requested to add them as party Respondent to present proceedings and terminate the appointment of Respondent No.1 as developer.

### ISSUES

From rival contentions the issue that arises for determination of this Authority is as to whether there is nonperformance on the part of Respondent No.1 and delay in implementation of subject S.R. Scheme is attributable to Respondent No.1.

### REASONS

Before proceeding to discuss the rival contentions it is necessary to look into the factual aspects of subject S.R. Scheme. The proposal of






subject S. R. Scheme is accepted by this Authority on 14.10.2011 on land bearing CTS No.471/A(Pt), 478(Pt), 481(Pt) & 483(Pt) of Village Kandivali, admeasuring 3189.08 sq. mtrs. The land is owned by MCGM & State Government. Since appointment of Respondent No.1 in the year 2011, the period of around 12 years has passed but till date no approvals are obtained by Respondent No.1. Even the Respondent No.1 failed to obtain Annexure-II.

The note of Deputy Collector (Special Cell)/SRA dated 11.12.2023 is on record. From said note it appears that the Slum Rehabilitation Authority has recorded 517 dormant proposals through Public Notice dated 20.04.2022 in which the developers and societies have failed to take necessary steps. In said list of 517 Schemes, the subject S.R. Scheme is at Sr. No.501. After recording of proposal of Respondent No.1, the Applicant societies have held General Body Meeting on 03.08.2022 in presence of authorized officer of Slum Rehabilitation Authority. The 125 slum dwellers were present and appointed M/s. Sheeya Developers as developer. In said General Body Meeting a resolution is passed by societies appointing Mr. Jamil Ahmed Bakedar Churihar as Chief Promoter of Jay Bharat SRA CHS & Mr. Mohammed Abubakar Mohammed Hanif Khan as Chief Promoter of Prabhat Chawl SRA CHS.

The record reveals that the recording of the proposal was challenged by the Respondent No.1 in Hon'ble High Court through Writ Petition No.11526 of 2022. In said Writ Petition the Intervener has filed Interim Application No.19391 of 2022. Lastly the said Writ Petition was listed on 27.10.2023 whereby the Hon'ble Court directed this Authority to decide 13(2) application of Applicant societies expeditiously.

The record further reveals that the Hon'ble High Court has quashed the Public Notice dated 20.04.2022 in Writ Petition (L) No.14017 of 2022 Nipun Thakkar V/s. CEO/SRA & Anr. It is pertinent to note that while quashing the Public Notice dated 20.04.2022, the Hon'ble High Court in order dated 10.01.2023 in para 13 have made following observation:



CEO / SRA



***"13. 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 not in accordance with law".***

From above observation of Hon'ble High Court, it is crystal clear that the Hon'ble High Court has not restricted or constrained the powers of this authority to take action in accordance with law, where justified. In other words, this Authority is having powers to take action in case of inordinate delay.

On behalf of Applicant Societies, Mr. Jamil Ahmed Bakedar Churihar & Mr. Mohammed Abubakar Mohammed Hanif Khan claiming themselves to be Chief Promoters appointed by Jay Bharat SRA CHS & Prabhat Chawl SRA CHS respectively in General Body Meeting dated 03.08.2022 held in presence of officers of Co-operative department/SRA has submitted written submission on record alleging that there is inordinate delay on the part of Respondent No.1 for more than 12 years and there is gross failure and non-performance on the part of Respondent No.1. The Scheme is stand still and on this count the Respondent No.1 should be terminated as developer and appointment of M/s. Shreeya Developers may be considered as new developer. There is another written submission of old Managing Committee represented through Mr. Fernandes Renaldo Anthony & Mr. Mohammed Hasan Chuhan Gujar as Chairman's of both Applicant societies on record. It is contended by them that they have faith and trust in Respondent No.1 in implementation of subject SR Scheme.

As against this, it is the version of Respondent No.1 that the subject SR Scheme is delayed mainly due to non-cooperation of disgruntled slum dwellers. It is further version of Respondent No.1 that due to opposition of non-cooperative slum dwellers to carry out the biometric survey the proposal of Annexure-II is returned to this Authority on various occasions.

The Respondent No.1 had filed Writ Petition No.11526 of 2022 challenging the recording of their proposal in list of 517 Schemes recorded through Public Notice dated 20.04.2022 as well as challenging





the General Body Resolution passed by the Applicant societies dated 03.08.2022 appointing the Intervener/Respondent No.3. The Hon'ble High Court has passed order dated 27.10.2023. In para nos. 14 & 15 of the order the observations of Hon'ble High Court are as under;

***"14. There is an additional complication. In August 2022, the Assistant Registrar of Societies of the SRA appointed new committees of both cooperative societies. For some reason that we cannot understand, the old committees claim to be separately represented before us as if to suggest that a committee has some separate standing or separate locus in a Writ Petition. We are straightaway rejecting the right of the old committee members to either appear in Court or before the SRA***

***15. In assessing the situation, the CEO SRA will undoubtedly have regard to the question of delay and completion of the project. The delay is actually far deeper than we had imagined because even the survey process is not yet complete, let alone the process of deciding eligibility and preparing or finalizing and an Annexure II. We note this only to impress on the CEO SRA the grave urgency because this has been the situation for the last 12 years. It is inconceivable that a scheme can be prepared on the basis that there are slum-like conditions and that situation then continues for over a decade."***

Admittedly the proposal of subject SR Scheme is accepted in the year 2011. There is no plausible justification forthcoming from Respondent No.1 for inordinate delay.

The developers implementing the Slum Rehabilitation Schemes are expected to complete the same within reasonable time. The Slum Rehabilitation Scheme is social welfare scheme for the benefit and advancement of slum dwellers. Such inordinate delay in rehabilitation of slum dwellers is bound to frustrate the basic object of Government in introducing the Slum Rehabilitation Schemes.

In this regard the observation of Hon'ble High Court in order dated 01.03.2013 in Writ Petition No.2349 of 2012 M/s. Hi Tech India Construction V/s Chief Executive Officer/SRA are relevant. In said case the developer was terminated by Chief Executive Officer/SRA on account of delay of 3 years. The said termination was upheld by High Power Committee. The order of High Power Committee was challenged by developer through said Writ Petition. The Hon'ble High Court upheld the termination. The observation of Hon'ble High Court in para 5 of said order are relevant and same are reproduced as it is for convenience;



***"The mere issuance of the letter dated 15<sup>th</sup> May, 2008, would not indicate that there was no delay on the part of the petitioners. These are slum rehabilitation schemes. It is for the developers to pursue the matter and to ensure that the scheme is implemented without delay. Developers cannot, by merely addressing letters to the authorities, sit back and contend that they had nothing more to do in the matter till they received a reply"***

This Authority being a Planning and Project Management Authority is under legal obligation to see that the scheme is completed within reasonable time. In the event of nonperformance and inordinate delay, this Authority is bound to take necessary action. The observation of Hon'ble High Court in Appeal From Order No.1019 of 2010, Ravi Ashish Land Developers Ltd. V/s. Prakash Pandurang Kamble & Anr. are relevant. The relevant observation of Hon'ble High Court are as under;

***"One fails to understand as to how persons and parties like Respondent No.1 are languishing and continuing in the transit accommodations for nearly two decades. When the slum rehabilitation projects which are undertaken by the statutory authority enjoying enormous statutory powers, are incomplete even after twenty years of their commencement, then it speaks volume of the competence of this Authority and the officials manning the same. In all such matters, they must ensure timely completion of the projects by appropriate intervention and intermittently. They may not, after issuance of letter of intent or renewals thereof, fold their hands and wait for developers to complete the project. They are not helpless in either removing the slum dwellers or the developers. The speed with which they remove the slum dwellers from the site, it is expected from them and they must proceed against errant builders and developers and ensure their removal and replacement by other competent agency."***

From above facts it appears that the slum dwellers have lost faith in Respondent No.1. It has sufficiently come on record that there are two rival groups in Applicant societies. Since, the new Managing Committee and Chief Promoters are appointed by eligible members of societies in General Body Meeting dated 03.08.2022, it will be just and proper to consider the contentions of authorized Committee. Even the Hon'ble High Court has also rejected the right of the old committee members to either appear in Court or before the SRA.

The General Body Resolution dated 03.08.2022 is strongly disputed by Respondent No.1. So it will be just and proper to direct the applicant societies to hold fresh General Body Meeting in presence of authorized





representatives of Co-operative department of Slum Rehabilitation Authority and to take decision in respect of appointment of new developer. Accordingly, this Authority proceeds further to pass following order;

**ORDER**

1. The appointment of Respondent No.1 i.e. M/s. S.B. Realty is terminated as developer of subject SR Scheme i.e. SR Scheme on CTS No.471/A(Pt), 478(Pt), 481(Pt) & 483(Pt) of Village Kandivali for Jay Bharat SRA CHS (Prop.) & Prabhat Chawl SRA CHS (Prop.).
2. The Applicant societies i.e. Jay Bharat SRA CHS (Prop.) & Prabhat Chawl SRA CHS (Prop.) are at liberty to appoint new developer of their choice as per rules, regulations and policy of Slum Rehabilitation Authority.
3. In the event of appointment of new developer other than Respondent No.1 the new incoming developer to reimburse the actual expenses incurred by Respondent No.1 as per provisions of section 13(3) of the Maharashtra Slum Areas (I, C & R) Act, 1971.
4. The newly appointed developer to comply with the provisions of circular no.210 of Slum Rehabilitation Authority.

Place:- Mumbai

Date:- 14 FEB 2024

14/2/2024  
Chief Executive Officer  
Slum Rehabilitation Authority

No.SRA/CEO/13(2)/Jay Bharat & Prabhat Chawl/ 9 /2024.

Date: 14 FEB 2024

Copy to:

1. Jay Bharat SRA CHS (Prop.) & Prabhat Chawl SRA CHS (Prop.)  
CTS No.471/A(pt), 478(pt), 481(pt)  
& 483(pt) of Village Kandivali at 90 Feet Road,  
Jagdish Shetty Marg, Ganesh Nagar,  
Kandivali (West), Mumbai – 400 067



2. M/s. S.B. Realty,  
Shop No.2, Om Shri Labh CHS, T.P.S. Road,  
Borivali (West), Mumbai - 400 092
3. M/s. Sky Tech Consultants,  
A-301, Agarwal B2B Center, D'Monte Lane  
Near Malad Industrial Estate, Orlem,  
Above Silver Oak Hotel, Kachpada,  
Malad (West), Mumbai - 400 064
4. M/s. Shreeya Developers,  
B/4, Rizvi Park, B-Wing, Near Reliance Mall,  
S.V. Road, Santacruz (West),  
Mumbai - 400 054
5. Deputy Chief Engineer/SRA
6. Executive Engineer (R/S Ward)/SRA
7. DDLR/SRA
8. Deputy Collector (Special Cell)/SRA
9. Finance Controller/SRA
10. Chief Legal Consultant/SRA
11. Assistant Registrar (W.S.)/SRA
12. IT Officer/SRA

