



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

**No.SRA/ENG/1710/HE/STGL/LOI**

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Akshay Sthapatya,  
B-601, Royal Sands, Off. Link Road,  
Andheri (West), Mumbai - 400 053
2. Shri Yogesh Gaikwad, Architect  
Room No.6, Neel Suman CHS,  
Four Bungalows, Near RTO,  
Mumbai - 400 053
3. Sant Dyaneshwar Nagar CHS (Prop.),  
CTS No.629(pt), Survey No.341  
Mauje - Bandra, Taluka - Andheri,  
PWD Compoud, Near Govt. Colony,  
Bandra Kurla Complex, Bandra (East),  
Mumbai - 400 051



... Respondents

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

**ORDER**

**(Passed on - 26 07 2023)**

These Suo-Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land CTS No.629(pt.), Survey No.341 of Village Bandra (East) for Respondent No.3 society pursuant to the note of Deputy Chief Engineer/SRA dated 19.04.2023. Hereinafter the above said Slum Rehabilitation Scheme is referred to and called as "Subject S.R. Scheme". In brief the facts which lead to the present proceedings are as under;

### **BRIEF FACTS**

The slum dwellers residing on plot of land bearing CTS No.629(pt.), Survey No.341 of Village Bandra (East) formed Respondent No.3 society i.e. Sant Dyaneshwar Nagar CHS (Prop.) and in General Body Meeting resolved to redevelop the said land by implementing the Slum Rehabilitation Scheme. The Respondent No.3 society appointed Respondent No.1 as Developer and Respondent No.2 as Architect for redevelopment. The proposal of subject SR Scheme was submitted to Slum Rehabilitation Authority on land admeasuring 984.50 sq. mtrs. The said land is owned by State Government. The proposal of subject SR Scheme is duly accepted by Slum Rehabilitation Authority on 31.10.2006. The Competent Authority has issued certified Annexure-II on 21.05.2008. There are total 53 slum dwellers out of which 43 slum dwellers were declared eligible. The Letter of Intent was issued on 14.10.2015. Thereafter no further permissions issued to subject SR Scheme.

Due to inordinate delay and non performance on the part of Respondent No.1, the Deputy Chief Engineer/SRA has submitted a note dated 19.04.2023 proposing to issue show cause notice to developer u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971. Accordingly notice was issued to all the Respondents i.e. Developer, Architect and Society of subject SR Scheme.

The matter was heard on various dates. On 06.06.2023 the parties were heard at length. Advocate Arun Panickar remain present for Respondent No.1. Shri Yogesh Gaikwad remain present in person for Respondent No.2. Representatives of Respondent No.3 society remain present. Heard all of them and matter was closed for order.

### **ARGUMENT OF SOCIETY (RESPONDENT NO.3)**

According to Respondent No.3, the Respondent No.1 has been appointed as the Developer of the subject SR Scheme in the year 2006 and they have submitted proposal to the Slum Rehabilitation Authority in the year 2006. The Annexure-II in respect of subject SR Scheme is issued in the year 2008 for total 53 slum dwellers, out of which 43 slum dwellers were declared as eligible. The Letter of Intent was issued on 14.10.2015.





Since then no permissions were obtained by Respondent No.1. According to Respondent No.3 the Respondent No.1 has promised them to further process the subject SR Scheme. But thereafter Respondent No.1 is not in their contact.

**ARGUMENT OF DEVELOPER (RESPONDENT NO.1)**

According to Respondent No.1 they have submitted the proposal of Respondent No.3 Society through Respondent No.2 Architect and the same is duly accepted on 31.10.2006. There are around 53 slum dwellers on the area admeasuring 984.50 sq. mtrs. It is further version of Respondent No.1 that land under the subject SR Scheme is owned by State Government. As per the certified Annexure-II dated 21.05.2008, out of 53 slum dwellers the 43 slum dwellers were declared as eligible.

It is further version of Respondent No.1 that Finance Controller/SRA has issued Annexure-III on 18.10.2008. In the year 2014 they have paid land premium to the tune of Rs.44,85,630/-. The Letter of Intent was issued on 14.10.2015. The Airport Authority of India issued NOC on 20.09.2021 for implementation of subject SR Scheme. It is the case of Respondent No.1 that the MCZMA has issued NOC in the year 2013 & 2017. Further the Mumbai Metro Rail Corporation Limited has also issued NOC on 15.10.2020. As per the requisitions mentioned in NOC dated 15.10.2020 by Mumbai Metro Rail Corporation Ltd. the subject SR Scheme become unviable.

According to Respondent No.1 the proposal of adjoining SR Scheme for Jai Bhavani Mitra Mandal CHS (Prop.) is submitted by them and same is accepted on 08.10.2017. The survey of Annexure-II is also carried out by Competent Authority. It is further version of Respondent No.1 that they will submit the proposal of amalgamation of subject SR Scheme with adjoining SR Scheme of Jai Bhavani Mitra Mandal CHS (Prop.) thereby making subject SR Scheme viable. According to Respondent No.1 delay is not attributable to them but the same is occurred on account of factors which are beyond their control. On these ground the Respondent No.1 has prayed to drop the present

proceedings initiated against them u/s 13(2) of the Maharashtra Slum Rehabilitation Areas (I, C & R) Act, 1971.

### **ISSUES**

From rival contentions the issue that arise for determination of this Authority is as to whether there is non-performance and inordinate delay on the part of Respondent No.1 in implementation of subject SR Scheme.

### **DISCUSSIONS**

It is not in dispute that the proposal of subject SR Scheme is accepted by Slum Rehabilitation Authority on 31.10.2006 for total 53 slum dwellers. The Annexure-II is issued by Competent Authority on 21.05.2008 declaring 43 slum dwellers as eligible. Thereafter the Letter of Intent was issued on 14.10.2015. After the issuance of Letter of Intent, there is absolutely no progress in subject SR Scheme till date. The period of around 17 years has passed. During the said period the Respondent No.1 has not rehabilitated a single slum dweller.

According to Respondent No.1 they have obtained various NOC's from various Authorities such as Airport Authority of India, MCZMA, Mumbai Metro Rail Corporation Limited, etc. As per requisitions mentioned in NOC issued by Mumbai Metro Rail Corporation Ltd. the subject SR Scheme become not feasible in the light of DCPR, 2034. So in order to become the subject SR Scheme viable Respondent No.1 undertake that they will submit the proposal of amalgamation of subject SR Scheme with adjoining SR Scheme. It is contended by Respondent No.1 that due to aforesaid reasons there is delay in implementation of subject SR Scheme and delay is not attributable to them.

The Respondent No.1 is seeking to justify the delay for various reasons. But whatever reservations and planning constrains are there in subject SR Scheme, the Respondent No.1 must be aware of the same since their appointment as Developer. The Respondent No.1 knowing fully well of these constrains have agreed to redevelop the land. Now, they cannot seek justification on said ground. 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."*

On careful consideration of above facts and circumstances this Authority has come to conclusion that there is inordinate delay and nonperformance on the part of Respondent No.1 in implementation of subject SR Scheme and they are liable to be terminated as Developer. Accordingly following order is passed.

**ORDER**

1. The Respondent No.1 i.e. M/s. Akshay Sthapatya is hereby stands terminated as developer of subject SR Scheme i.e. SR Scheme on land CTS No.629(pt.), Survey No.341 of Village Bandra (East) for Sant Dyaneshwar Nagar CHS (Prop.).
2. The Respondent No.3 society i.e. Sant Dyaneshwar Nagar CHS (Prop.) is at liberty to appoint new developer of its choice in accordance with rules, regulations and policy of Slum Rehabilitation Authority.
3. The newly appointed developer to reimburse the actual expenses incurred by Respondent No.1 in respect of subject SR Scheme till date.

Place: - Mumbai

Date:- 26 JUL 2023

  
Chief Executive Officer  
Slum Rehabilitation Authority

No. SRA/CEO Order/Sant Dyaneshwar Nagar CHS (Prop.)/42/2023

Date:

26 JUL 2023





Copy to:

1. M/s. Akshay Sthapatya,  
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Andheri (West), Mumbai – 400 053
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Bandra Kurla Complex, Bandra (East),  
Mumbai - 400 051
4. Dy. Chief Engineer/SRA
5. Executive Engineer (H/E Ward)/SRA
6. Tahashildar-1/SRA
7. Financial Controller/SRA
8. Assistant Registrar (City)/SRA
9. Information Technology Officer/SRA
10. Chief Legal Consultant/SRA

