



SLUM REHABILITATION AUTHORITY

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

File No. SRA/ENG/2179/PN/MHL/LOI

Sai Visava SRA CHS (Prop.)
CTS No.827B/1A/1 of Mauje Malad,
Taluka Borivali, Khadakpada,
General Arunkumar Vaidya Marg,
Dindoshi, Malad (East),
Mumbai - 400 097

V/s

1. M/s. Ami Corporation,
203 X - Cube, Opp. Fun Republic Theatre,
Opp. Link Road, Andheri (West),
Mumbai - 400 053

2. M/s. Ace Consultants,
234A, Building No.45, 2nd Floor,
Bandra Saikrupa CHS, Opp. MIG Club,
Bandra (East), Mumbai - 400 051

... Applicant



... Respondents

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

ORDER

(Passed on - 12/9/23)

These proceedings are initiated in respect of Slum Rehabilitation Scheme on land CTS No.827B/1A/1 of Mauje Malad at Khadak Pada, Malad (East), Mumbai - 400 097 for "Sai Visava SRA CHS (Prop.)" pursuant to application of Applicant dated 23.01.2023 on account of inordinate delay and non-performance on the part of Respondent No.1 developer. Hereinafter the above said Slum Rehabilitation

SRA

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.827B/1A/1 of Mauje Malad at Khadak Pada, Malad (East), Mumbai - 400 097 formed Applicant society i.e. Sai Visava SRA CHS (Prop.) and resolved to redevelop the land admeasuring 16210 sq. mtrs. in their occupation. Accordingly, General Body Meeting of society was 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 18.04.2009. The said land on which the subject SR Scheme is proposed is owned by MHADA. However thereafter there is absolutely no progress at all in subject SR Scheme. Even after lapse of more than 14 years, the Respondent No.1 failed to obtain the certified Annexure-II. The slum dwellers who are residing in poor hygienic conditions without basic amenities like drainage, water, road, etc. lost the faith in Respondent No.1.

The note of Tahsildar-2/SRA dated 22.02.2023 is on record. From said note it appears that due to failure of Respondent No.1, the Applicant Society approached to Slum Rehabilitation Authority for termination of developer and Deputy Collector/SRA through order dated 16.08.2018 terminated Respondent No.1 as developer of subject SR Scheme. The said order dated 16.08.2018 is challenged by Respondent No.1 in Hon'ble Apex Grievance Redressal Committee in Application (L) No.189 of 2018 and the Hon'ble Apex Grievance Redressal Committee through order dated 19.12.2018 set aside the order of Deputy Collector/SRA passed on 16.08.2018.

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.369. In the meanwhile, after recording the proposal of Respondent No.1, the Applicant society has held General Body Meeting on 16.10.2022 in presence of authorized officer of Slum Rehabilitation Authority. Out of total 660 slum dwellers, the 444 slum dwellers were present and majority of slum dwellers appointed one M/s. Omni Sky Line LLP as developer. In said General Body Meeting a resolution is passed by society appointing Shri Vishnu Tanu Main as Chief Promoter.

The record further reveals that in the meantime the Respondent No.1 has filed Writ Petition (L) No.14017 of 2022 in Hon'ble High Court challenging the Public Notice dated 20.04.2022. The Hon'ble High Court through order dated 10.01.2023 quashed the said Public Notice dated 20.04.2022 recording 517 SR Schemes. While quashing the Public Notice dated 20.04.2022, the Hon'ble High Court in paragraphs nos.11 to 13 of the order made following observations;

""11. In addition, we also make Rule absolute in terms of prayer clause (c) which reads thus:

"(c) that this Hon'ble Court be pleased to issue a writ of mandamus, or a writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of Constitution of India directing the Respondent No.2 to issue Annexure II certifying the eligibility of the slum dwellers structures on the piece and parcel of land bearing CTS No.827B/1A/1 (as per PR Card CTS No.827/B/1/A/1) admeasuring 16206 sq. mtrs. or thereabouts corresponding to Survey No.239, Hissa No.1 of Village Malad, Taluka Borivali lying being and situated at Khadakpada, General Arun Kumar Vaidya Marg, Malad (East), Mumbai 400 097 for the SR scheme submitted by the Petitioner."

12. It is after these compliances that the SRA will consider the question of issuing the necessary Letter of Intent or LOI.

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"".

Thereafter the Applicant through Application dated 23.01.2023 has alleged that the Respondent No.1 has failed to make any progress since last 10 years and further requested to terminate their appointment u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971. Pursuant to said Application the notices were issued to the concerned parties. Accordingly hearing was held on 11.04.2023. On said day representatives of Applicant Society remain present alongwith their Advocate Shri Sonappa Nandrankar. Advocate Shri Pratik Shah for Respondent No.1 also remain present. The parties were heard at length and matter was closed for order. Directions were given to parties to submit their written submissions within two weeks.

ARGUMENT OF APPLICANT

According to Applicant, the occupants on land bearing CTS No.827B/1/A/1 & 827B/1/A/2 have formed proposed Sai Visava SRA CHS and appointed Respondent No.1 as their developer through General Body Resolution. It is further version of Applicant that the said land in occupation of Applicant is acquired by Government of Maharashtra from F.E. Dinshaw Trust in the year 1991 and the same was handed over to MHADA. The said land is encroached by several slum dwellers. The ownership of the said land was disputed by Vaijal family and Andher family. According to Applicant one part of said land to the extent of 12,141 sq. mtrs. was claimed by Vaijal family and other part of said land to the extent of 6,070 sq. mtrs. was claimed by Andher family as per the provisions of Bombay Tenancy and Agricultural Act.

So far as the dispute between Vaijal family and MHADA is concern, it is contended by the Applicant that the said dispute is started in the year 2005 in respect of CTS No.827B/1A/1 for area admeasuring 12141 sq. mtrs. The Vaijal family filed application before the Revenue Authority challenging the mutation entry of recording



name of MHADA and accordingly 24.11.2008 the name of Vaijal family was recorded in revenue records. In the year 2010 the MHADA filed Appeal before Deputy Collector (Appeals), MSD challenging the order dated 24.11.2008 passed by Tahsildar recording the name of Vaijal family and the same was dismissed on 10.05.2010. The said order dated 10.05.2010 is challenged by MHADA by filling Revision Appeal before the Additional Commissioner, Konkan Division and the said Appeal is allowed on 30.04.2011 and directions were given to Tahsildar to record the name of MHADA in revenue records. Again the said order dated 30.04.2011 is challenged by Vaijal family before the Hon'ble Revenue Minister and the Hon'ble Revenue Minister through order dated 26.08.2011 directed MHADA to maintain status quo in respect of said land. It is further version of Applicant that during the pendency of the litigation before the Revenue Minister the Vaijal Family filed Suit No.1824 of 2009 in Hon'ble City Civil Court and also moved Notice of Motion No.1373 of 2009 praying to restrain this Authority to accept the proposal of subject SR Scheme. The said Notice of Motion was dismissed on 14.11.2009 and the same is challenged by Vaijal family in Review Petition No.13 of 2009 in City Civil Court. The said Review Petition was also dismissed on 06.03.2010 and the said order dated 06.03.2010 is challenged by Vaijal family before Hon'ble High Court in Appeal from Order (L) No.10602 of 2010 as well as Writ Petition No.3482 of 2010. It is further version of Applicant that, the Applicant has also filed Chamber Summons No.650 of 2014 in Suit No.1824 of 2009 in City Civil Court, but the same is dismissed through order dated 25.03.2015. Thereafter the Applicant filed Writ Petition (L) No.14050 of 2015 in Hon'ble High Court and during the pendency of said Petition the ownership of MHADA got restored through Consent Terms with Vaijal family. The said Petition is disposed of on 10.12.2015 in terms of said Consent Terms. The Appeal from Order (L) No.10602 of 2010 as well as Writ Petition No.3482 of 2010 is also dismissed on 15.12.2015 in terms of Consent Terms dated

10.12.2015. The Suit No.1834 of 2009 is also dismissed by City Civil Court on 21.12.2015 in terms of Consent Terms dated 10.12.2015. Thereafter the said Vaijal family unconditionally withdrawn Appeal and through order dated 06.03.2019 the Revenue Minister vacated interim order dated 26.08.2011.

So far as the dispute between Andher family and MHADA is concern, It is contended by Applicant that the dispute between Andher family was started in the year 2005 in respect of CTS No.827B/1A/2 for area admeasuring 6072.4 sq. mtrs. The Andher family filed application before the Revenue Authority challenging the mutation entry of recording name of MHADA and accordingly in the year 2005 the name of the Andher family was recorded in revenue records. In the year 2006 the MHADA filed Appeal before Commissioner, Konkan Division and the same was remanded to Collector for reconsideration. Thereafter through order dated 26.11.2008, the Divisional Commissioner, Konkan Division has informed the District Collector, Mumbai Suburban to hold fresh enquiry about title of Andher family. In the year 2009, Jaya Andher applied to the State Government to sell the said land and accordingly the State Government has granted permission to sell the said land. Thereafter One Valentine Luis has filed Writ Petition No.1011 of 2011 claiming the rights in respect said land. On 02.08.2011 the Hon'ble High Court has disposed of the said Petition and directed the State Government to hold its permission of sale till Collector completes its enquiry. The District Collector through order dated 28.11.2011 has directed MHADA to file Revision Application before Divisional Officer, MSD and accordingly the MHADA has filed Revision Application No.2 of 2012 before Sub Divisional Officer. During the said proceedings the Andher family filed Revision Application before the Revenue Minister challenging the order dated 28.11.2011 passed by District Collector, MSD. Thereafter the Revenue Minister through order dated 03.02.2014 granted status quo with respect to said land and set aside the order



dated 28.11.2011 passed by District Collector. The said order was challenged by MHADA in Writ Petition No.9895 of 2014 as well as Respondent No.1 in Writ Petition No.9487 of 2014 before Hon'ble High Court. In Writ Petition No.9487 of 2014, the Hon'ble High Court through order dated 14.10.2014 directed parties to maintain status quo. The status quo is operative against the State Government for not granting any rights to Respondent of Petitions and there is no order to hold the development of property under Slum Act.

According to Applicant the Respondent No.1 was terminated by Deputy Collector/SRA through order dated 18.08.2018. The said order is set aside by Hon'ble Apex Grievance Redressal Committee on 19.12.2018 in Application (L) No.189 of 2018. The said order dated 19.12.2018 is challenged by Applicant in Writ Petition (L) No.2050 of 2019 and same is dismissed through order dated 03.12.2019 due to non-compliance of office objections. It is further version of Applicant that, this 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 SR Scheme is at Sr. No.369. After recording of proposals the Respondent No.1, the Applicant society has held General Body Meeting on 16.10.2022 in presence of authorized officer of Slum Rehabilitation Authority. Out of total 660 slum dwellers, the 444 slum dwellers were present and they appointed one M/s. Omni Sky Line LLP as developer. The Public Notice dated 20.04.2022 is challenged by Respondent No.1 in Writ Petition (L) No.14017 of 2022 before the Hon'ble High Court and the Hon'ble High Court through order dated 10.01.2023 set aside the Public Notice dated 20.04.2022. On these grounds the Applicant prayed to terminate the appointment of Respondent No.1 as developer.

ARGUMENT OF RESPONDENT NO.1

It is the version of Respondent No.1 that Applicant society has appointed them as developer of subject SR Scheme. The said land is

initially owned by F.E. Dinshaw Trust and the same is declared as surplus vacant land under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976. The said Trust filed a Writ Petition No.1857 of 1987 against the State of Maharashtra & Ors. The Government of Maharashtra has passed a resolution dated 16.02.1991 to acquire various lands including property belonging to the said Trust. Accordingly said Trust and Government of Maharashtra executed Consent Terms dated 24.01.1992 and land admeasuring 132 Acres transferred to Government. The said Consent Terms were taken on record in Writ Petition No.1857 of 1987 and the Petition is disposed of in terms of Consent Terms. Out of 132 Acres of land, the land admeasuring 72 Acres handed over to MHADA.

It is further version of Respondent No.1 that one Smt. Tulsibai Vaijal & 4 others claiming to be Adivasi and also claiming ownership in respect of CTS No.827B/1A/1(pt) on the basis of 32M certificate under Bombay Tenancy and Agricultural Act issued on 27.10.1965. During the year 2005-2007 the Vaijal family filed an application before Revenue Authority challenging the mutation entry of recording name of MHADA. On 29.02.2008 the Sub Divisional Officer, Land Records remanded the Appeal and directed the Tahsildar to verify the possession of said land. In the meanwhile, the slum dwellers on said land through General Body Resolution dated 15.11.2008 have appointed them as developer to implement subject SR Scheme. It is alleged by Respondent No.1 that the Applicant remain silent on the pending litigation of the Tribal. On 24.11.2008 the Tahsildar deleted the name of MHADA from the Revenue records and directed to mutate the name of Smt. Tulsibai Vaijal & 4 Others. Accordingly names of Vaijal family is included in 7/12 extract of the said land. The MHADA filed Appeal before Deputy Collector (Appeals), MSD challenging the order dated 24.11.2008. The Applicant society without intimating the said fact executed Development Agreement and Power of Attorney in favour of Respondent No.1 for redevelopment of said land.



It is further version of Applicant that earlier in the year 2004-2005, some of the slum dwellers of the said land have formed Shiv Shahi CHS (Prop.) and appointed M/s. Mauli Sai Developers for implementing the SR Scheme on said land. In the year 2009 the Applicant society undertook to settle the claims of Shiv Shahi CHS (Prop.) & M/s. Mauli Sai Developers and appointed Respondent No.1 as developer. Accordingly the proposal of the Applicant society is accepted in the year 2009 and LOI scrutiny fee is also paid. On 28.07.2009 the proposal for issuance of Annexure-II is forwarded to MHADA. In the meanwhile M/s. Mauli Sai Developers filed two Suits No.1629 of 2009 and Suit No.1633 of 2009 in the City Civil Court and later on both the Suits were dismissed through common order dated 11.01.2010. Thereafter Shiv Shahi CHS (Prop.) and M/s. Mauli Sai Developers filed Application No.143 of 2010 before the Hon'ble High Power Committee and the same was dismissed on 04.09.2010. The said order dated 04.09.2010 is challenged by Shiv Shahi Society and M/s. Mauli Sai Developers in Writ Petition (L) No.2291 of 2010 in Hon'ble High Court and the same is also dismissed for non-prosecution on 30.11.2010. On follow up from Respondent No.1, the MHADA has carried out the survey of Annexure-II on 30.03.2010 for 511 tenements.

According to Respondent No.1, the Vaijal family filed a Suit No.1824 of 2009 in City Civil Court and also moved Notice of Motion No.1373 of 2009 & Review Petition No.13 of 2009 in said Suit for interim/ad-interim relief but the same are dismissed. The Vaijal family filed Writ Petition No.3482 of 2010 and also filed Appeal from Order (Stamp) No.10602 of 2010 against the order of City Civil Court. In the meanwhile the Appeal filed by MHADA against the order dated 24.11.2008 came to be dismissed on 10.05.2010 by the District Collector (Appeals), MSD. The order dated 10.05.2010 is challenged by MHADA by filling Appeal before the Commissioner, Konkan Division and the said Appeal is allowed on 30.04.2011 and directions were given to record the name of MHADA in revenue record. Again the

said order dated 30.04.2011 is challenged by Vaijal family before the Hon'ble Revenue Minister and the Hon'ble Revenue Minister through order dated 26.08.2011 directed MHADA to maintain status quo in respect of said property.

It is the case of Respondent No.1 that on 18.05.2011 of CO/MHADA to this Authority informing that where land of MHADA is developed by private developer, in such case SRA should not issue LOI. Further on 06.08.2013 a resolution is passed by MHADA resolving that MHADA itself undertake to redevelop the land belonging to them under DCR 33(10). Thereafter MHADA has appointed them to defend various proceedings initiated by Vaijal family and issued LOI on 11.07.2014. In said LOI a condition is imposed that society and developer will restore the ownership of MHADA by defending litigations filed by Vaijal family and Andher family. According to Respondent No.1 they have filed Writ Petition (L) No.14050 of 2015 in Hon'ble High Court and during the pendency of said Petition the ownership of MHADA got restored through negotiation with Vaijal family. The Consent Terms dated 10.12.2015 were also executed between Vaijal family and society and developer. The said Petition is disposed of on 10.12.2015. In terms of said Consent Terms the Vaijal family withdrawn all the litigations in Hon'ble Courts. Further Vaijal Family unconditionally withdrawn Appeal and through order dated 06.03.2019 vacated interim order dated 26.08.2011.

According to Respondent No.1 almost 13 years the MHADA has not certified Annexure-II despite every efforts by them. Further due to status quo order dated 26.08.2011 till 06.03.2019, MHADA did not process the Annexure-II. The number of slum dwellers were also increased from year 1995 to 2000.

It is further version of Respondent No.1 that one Andher family claiming to be Adivasi and also claiming ownership in respect of CTS No.827B/1A/2(pt). The Sub Divisional Officer, MSD decided the Appeal No.20 of 2005 filed by Andher family for challenging the mutation



entries recording the name of MHADA and accordingly SDO, MSD allowed the said Appeal on 19.06.2006. Accordingly names of Andher family recorded in respect of said land. The said order was challenged before the Divisional Commissioner, Konkan Division and through order dated 26.11.2008, directions were given to District Collector to reconsider the order. In the meanwhile the State Government has granted the permissions Andher family to sell the said land. The said directions were challenged by one Valentine Luis before the Hon'ble High Court in Writ Petition No.1011 of 2011 and the same is disposed of on 02.08.2011 directing not to implement the order of State Government till enquiry pending before Collector, MSD. Pursuant to said directions the Collector, MSD recorded names of MHADA in revenue record. The said order is challenged before the Revenue Minister and the Revenue Minister through order dated 03.02.2014 stayed the order dated 28.11.2011 passed by Collector, MSD. The said order is challenged by Applicant in Writ Petition No.9487 of 2014 and the Hon'ble Court has directed parties to maintain status quo. The MHADA and one Luis has also filed separate Writ Petition and the same is clubbed with Writ Petition No.9487 of 2014. The MHADA has filed Writ Petition No.9895 of 2014 and Valentine Luis also filed Writ Petition No.3963 of 2015 and all the three Writ Petitions clubbed together and order of Status Quo is still operative. The Hon'ble High Court through order dated 31.07.2020 appointed Court Receiver, High Court Bombay as Receiver in respect of land CTS No.827B/1A/2(pt). It is alleged by Respondent No.1 that when the title of said land is cleared in favour of MHADA, the so called Chief Promoter of society in hand in glows with rival developer called meeting on 11.03.2013 for initiating action for change of developer.

It is further version of Respondent No.1 that through order dated 16.08.2018 this Authority terminated their appointment as developer and the said order is set aside by Hon'ble Apex Grievance Redressal Committee on 19.12.2018 in Application No.189 of 2018. While passing



the order the Hon'ble Committee has observed that delay is attributable to Respondent No.1. Even the said order is challenged by Applicant in Hon'ble High Court through Writ Petition (L) No.2050 of 2019 and same is dismissed through order dated 03.12.2019. Thereafter this Authority recorded 517 dormant proposals in which subject SR Scheme is at Sr.No.369. Pursuant to said Public Notice, the Applicant has appointed new developer through General Body Meeting and the same is challenged by them in Hon'ble High Court. Further Writ Petition challenging the Public Notice is set aside by Hon'ble High Court through order dated 10.01.2023. On these grounds the Respondent No.1 prayed to drop the present proceedings.

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

It is admitted fact that the proposal of subject S.R. Scheme is accepted by this Authority on 18.04.2009. The certified Annexure-II is not issued till date. Further it appears that due to failure of developer the Applicant approached to Slum Rehabilitation Authority for termination of developer and Deputy Collector/SRA through order dated 16.08.2018 terminated Respondent No.1 as developer of subject SR Scheme. The said order dated 16.08.2018 was challenged by Respondent No.1 before Hon'ble Apex Grievance Redressal Committee in Application (L) No.189 of 2018 and the Hon'ble Apex Grievance Redressal Committee through order dated 19.12.2018 set aside the order of Deputy Collector/SRA passed on 16.08.2018. The Hon'ble Apex Grievance Redressal Committee has also observed that all parties have admitted the fact that as per one of the conditions of LOI dated 11.07.2014 issued by MHADA in favour of Respondent No.1 and Applicant that they have to clear all the pending litigation in



respect of title of land bearing CTS No.827B/1A/1 and CTS No.827B/1A/2 of Village Malad and restore the ownership of said land in favour of MHADA. Lastly it is concluded by the Hon'ble Apex Grievance Redressal Committee that delay in implementation of subject SR Scheme cannot be attributed to Respondent No.1. Even the said order dated 19.12.2018 is challenged by Applicant in Hon'ble High Court through Writ Petition (L) No.2050 of 2019 and same is dismissed through order dated 03.12.2019. The said order dated 03.12.2019 has attained finality.

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.369. In the meanwhile, after recording of proposals the Respondent No.1, the Applicant society has held General Body Meeting on 16.10.2022 in presence of authorized officer of Slum Rehabilitation Authority. Out of total 660 slum dwellers, the 444 slum dwellers were present and majority of slum dwellers appointed one M/s. Omni Sky Line LLP as developer. In said General Body Meeting a resolution is passed by society appointing Shri Vishnu Tanu Main as Chief Promoter. In the meantime the Respondent No.1 has filed Writ Petition (L) No.14017 of 2022 in Hon'ble High Court challenging the Public Notice dated 20.04.2022. The Hon'ble High Court through order dated 10.01.2023 quashed the said Public Notice dated 20.04.2022 recording 517 SR Schemes. While quashing the Public Notice dated 20.04.2022, the Hon'ble High Court in paragraphs nos.11 to 13 of the order made following observations;

""11. In addition, we also make Rule absolute in terms of prayer clause (c) which reads thus:

“(c) that this Hon'ble Court be pleased to issue a writ of mandamus, or a writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of Constitution of

India directing the Respondent No.2 to issue Annexure II certifying the eligibility of the slum dwellers structures on the piece and parcel of land bearing CTS No.827B/1A/1 (as per PR Card CTS No.827/B/1/A/1) admeasuring 16206 sq. mtrs. or thereabouts corresponding to Survey No.239, Hissa No.1 of Village Malad, Taluka Borivali lying being and situated at Khadakpada, General Arun Kumar Vaidya Marg, Malad (East), Mumbai 400 097 for the SR scheme submitted by the Petitioner."

12. It is after these compliances that the SRA will consider the question of issuing the necessary Letter of Intent or LOI.

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"".

Apart from aforesaid facts it is necessary to verify as to whether there is non-performance or willful delay on the part of Respondent No.1. It is admitted fact that there was title dispute in respect of land of subject SR Scheme. The record reveals the factual position as under;

The two families were claiming ownership over land admeasuring 19211 sq. mtrs. including the land of subject SR Scheme. The details are as under;

(a) So far as the dispute between Vaijal family and MHADA is concern, there is copy of order of Hon'ble Apex Grievance Redressal Committee dated 19.12.2018. From observation of Hon'ble Apex Grievance Redressal Committee in said order it appears that the said land CTS No.827B/1A/1, admeasuring 12141 sq. mtrs. was muted in the name of MHADA. The said Mutation was challenged by Vaijal family before Sub Divisional Officer and Sub Divisional Officer through order dated 29.02.2008 remanded the matter to Tahsildar, Borivali with direction to verify the possession over the said land and to take further necessary action as per law.



The Tahsildar after hearing the parties through order dated 24.11.2008 set aside the Mutation Entry no.2017 of MHADA and deleted the name of MHADA from Revenue record. The Tahsildar further directed to effect the Mutation in the name of Vaijal family as an owner of said land and accordingly name of Vaijal family was recorded in Revenue record.

The said order of Tahsildar was challenged by MHADA by way of Appeal before Deputy Collector (Appeals), MSD who after hearing the parties through order dated 10.05.2010 rejected the Appeal and thereby confirmed the order of Tahildar.

The said order of Deputy Collector (Appeals) was challenged by MHADA by way of Revision before Additional Commissioner, Konkan Division who after hearing the parties through order dated 30.04.2011 allowed the Appeal and set aside the order of Tahsildar.

The order of Additional Commissioner, Konkan Division was challenged by Vaijal family before Hon'ble Revenue Minister and Hon'ble Revenue Minister by order dated 26.08.2011 directed to maintain status quo in respect of said land. The record further reveals that the Vaijal family unconditionally withdrawn the said Appeal and the Appeal is disposed of through order dated 06.03.2019 and interim order of status quo is vacated.

Further it appears that during the pendency of aforesaid litigations the Vaijal family had filed a Suit No.1824 of 2009 before Hon'ble City Civil Court. In said Suit the Vaijal family also moved Notice of Motion No.1373 of 2009 restraining the Respondents therein from accepting the proposal of any persons, builders and developers on said land. The Hon'ble City Civil Court by order dated 06.03.2010 dismissed the said Notice of Motion. The Vaijal family again filed Revision Petition and it was also dismissed. The said order of dismissal was challenged by Vaijal family through Appeal from Order (L) No.10602 of 2010 as well as Writ Petition No.3482 of 2010. A another Suit No.1824 of 2009 was also filed by Vaijal family. The record further



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reveals that the Sai Visava CHS & Mr. Thakkar of AMI Corporation filed a Writ Petition (L) No.14050 of 2015 and ultimately there where Consent Terms dated 10.12.2015 and litigation came to an end by way of Consent Terms. Ultimately the Vaijal family admitted the ownership and possession of said land of MHADA.

(b) So far as the dispute between Andher family and MHADA is concern, the record further reveals that with regard to land CTS No.827B/1A/2, admeasuring 6072.4 sq. mtrs., one Andher family filed Appeal before Sub Divisional Officer challenging the Mutation of MHADA. The Sub Divisional Officer through order dated 19.06.2006 remanded the matter to Tahsildar with direction to verify the possession over said land and to take further necessary action as per law.

Pursuant to said order the Tahsildar, Borivali after hearing the parties through order dated 19.05.2007 deleted the Mutation Entry No.1982 of MHADA and directed to muted the name of Andher family as an owner. From order of Hon'ble Apex Grievance Redressal Committee as well as written submissions of Respondent No.1 it appears that the Writ Petition No.9487 of 2014 as well as Writ Petition No.9895 of 2014 are pending in Hon'ble High Court and the Writ Petitions are still pending.

It is submitted on behalf of Respondent No.1 that the delay is not attributable to Respondent No.1 and same was occurred due to multiple litigations and proceedings before Revenue Authorities, City Civil Court and Hon'ble High Court. Further it is argued that due to title dispute the certified Annexure-II was not issued by MHADA though the Respondent No.1 requested MHADA on several occasions. Further in respect of delay it is submitted by Respondent No.1 that some of the slum dwellers are non-cooperative and frequently making complaints to various Authorities. Apart from complaints due to Covid Pandemic they were not in position to take further steps.



It is not in dispute that in the year 2019 to 2020 there was nationwide Covid for around 2 years the developers were not in position to take necessary steps and after Covid lockdown the proposal of subject SR Scheme was recorded in list of 517 SR Schemes and said list is ultimately quashed by Hon'ble High Court.

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.

Considering the submission and argument advanced before this Authority, it is difficult to conclude that there is intentional delay on the part of Respondent No.1. It appears that the delay is occurred due to non cooperation of slum dwellers as well as due to litigation in respect of title. The delay is not attributable to Respondent No.1 but due to various litigations before Apex Grievance Redressal Committee and Hon'ble High Court. The facts on record reveals that the land owners had challenged revenue record in respect of said land and ultimately their challenge in respect of land CTS No.827B/1A/1(pt) came to an end in the year 2019. The record further reveals that during the pendency of litigation the Applicant society started movement for termination of Respondent No.1 and the same is also ended in the year 2018. The record further reveals that after vacating status quo in respect of land CTS No.827B/1A/1(pt), the MHADA has not completed survey of Annexure-II till the year 2021. Further in the year 2022 the proposal of subject SR Scheme was recorded alongwith other SR Scheme. The letter dated 17.01.2023 of

MHADA further reveals that the survey could not be completed due to obstruction of some of the disgruntled slum dwellers. These facts clearly reveals that delay is not attributable to Respondent No.1.

On careful consideration of these facts and circumstances, it is difficult to conclude that there is nonperformance and willful delay on the part of Respondent No.1. Therefore, it will be just and proper to drop the present proceeding. Accordingly following order is passed.

ORDER

1. The proceedings u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 against Respondent No.1 are hereby dropped.
2. The Respondent No.1 is directed to submit bar chart regarding time bound implementation of the subject SR Scheme with dates.
3. The Respondent No.1 is directed to deposit the advance rent of 2 years and post-dated cheque for remaining period of completion at the stage of Annexure-III as per circular no.210 of Slum Rehabilitation Authority.

Place:- Mumbai

Date:- 12 SEP 2023


Chief Executive Officer
Slum Rehabilitation Authority



No.SRA/CEO/13(2)/Sai Visava SRA CHS (Prop.)/56 /2023.

Date: 12 SEP 2023

Copy to:

1. Sai Visava SRA CHS (Prop.)
CTS No.827B/1A/1 of Mauje Malad,
Taluka Borivali, Khadakpada,
General Arunkumar Vaidya Marg,
Dindoshi, Malad (East),
Mumbai - 400 097
2. M/s. Ami Corporation,
203 X - Cube, Opp. Fun Republic Theatre,
Opp. Link Road, Andheri (West),
Mumbai - 400 053

3. M/s. Ace Consultants,
234A, Building No.45, 2nd Floor,
Bandra Saikrupa CHS, Opp. MIG Club,
Bandra (East), Mumbai - 400 051
4. Deputy Chief Engineer/SRA
5. Executive Engineer (P/N Ward)/SRA
6. DSLR/SRA
7. Tahsildar-2/SRA
8. Finance Controller/SRA
9. Chief Legal Consultant/SRA
10. Assistant Registrar (W.S.)/SRA
11. IT Officer/SRA

