



**SLUM REHABILITATION AUTHORITY**

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

**File No. RS/MCGM/0009**

Maruti Nagar CHS Ltd.  
CTS No. 585 (pt), 604(pt), 605(pt), 1/2  
New Prabhu Chawl, Maruti Nagar,  
Hindustan Naka, Kandivali (West),  
Mumbai - 400067

... Applicant

V/s

1. M/s. Better Builders & Infrastructure Pvt. Ltd.  
5/5, Mathuradas Estate,  
St. Anthony Street, Kalina,  
Santacruz (East), Mumbai - 400098
2. M/s. Shah & Associates  
A/1, Rajeshwar Accord,  
Telly Gully Cross Road,  
Andheri (East), Mumbai - 400069



... Respondents

**ORDER**

**(Passed on - 11/06/22)**

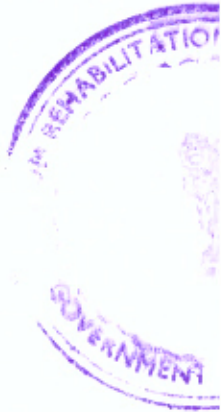
The present proceedings are initiated pursuant to representations of Applicant dated 06.01.2020, 08.01.2020 and 14.02.2020 in respect of Slum Rehabilitation Scheme on land CTS No. 585(pt), 595(pt), 596(pt), 601, 602, 604, 605(pt) of Village Kandivali at Hindustan Naka, Kandivali (W) for "Maruti Nagar CHS Ltd". Hereinafter the abovesaid Slum Rehabilitation Scheme is referred to and called as "subject SR Scheme". In brief the facts which lead to present proceedings are as under;

**CEO / SRA**

**BRIEF FACTS:**

The slum dwellers residing on plot of land bearing CTS No. 585(pt), 595(pt), 596(pt), 601, 602, 604, 605(pt) of Village Kandivali at Hindustan Naka, Kandivali (West) have formed Applicant society and resolved to redevelop the land in their occupation by implementing the Slum Rehabilitation Scheme. Accordingly Applicant passed resolution and appointed Respondent No.1 as Developer and Respondent No.2 as Architect for redevelopment. Pursuant to their appointment, the Respondent No.1 submitted proposal of subject SR Scheme to Slum Rehabilitation Authority and it was duly accepted on 06.09.2005. The land under the subject SR Scheme admeasuring 9579 sq. mtrs. is owned by MCGM. The certified Annexure-II was issued on 08.03.2006 for total 470 number of slum dwellers out of which 347 slum dwellers were held eligible. After issuance of Annexure-II complaints were received regarding authenticity of documents submitted by slum dwellers and thereafter the Competent Authority cancelled the Annexure-II issued to the subject SR Scheme. Accordingly the proposal of subject SR Scheme was recorded on 30.12.2006 but thereafter pursuant to order of Hon'ble Supreme Court, order was passed by the then Chief Executive Officer/SRA on 06.11.2019 and proposal is revived. Thereafter there is no progress in subject SR Scheme and the scheme is stand still.

Due to inordinate delay in implementation of subject SR Scheme, the Applicant submitted representations dated 06.01.2010, 08.01.2020 and 14.02.2020 for termination of appointment of Respondent No.1 as Developer. Pursuant to said representations a note dated 15.11.2021 was submitted by Tahasildar-2/SRA to the Chief Executive Officer/SRA. The Chief Executive Officer/SRA directed to issue show cause notice u/s 13(2) of Maharashtra Slum Areas (I, C & R) Act, 1971 and accordingly notices were issued to the concern parties and the matter was heard on 10.12.2021. On said day representatives



  
CEO / SRA



of Applicant Society remain present. Shri. Jitendra Pednekar remain present for Respondent No.1. Heard all of them and matter was closed for order. Directions were given to parties to submit their written submission within 8 days.

**ARGUMENT OF APPLICANT SOCIETY**

According to Applicant society they have appointed Respondent No.1 as Developer in the year 2005. It is alleged by the Applicant that due to lack of knowledge and financial capacity of Respondent No.1 till the year 2008, no work was commenced in subject SR Scheme. It is further version of Applicant that due to nonperformance of Respondent No.1, the members of Applicant Society formed Adarsh Estate CHS and Saidham CHS and decided to appoint other developer. The Applicant Society filed Application No.316 of 2008 before the High Power Committee challenging the formation of Adarsh Estate CHS and Saidham CHS. The Hon'ble High Power Committee through order dated 07.02.2009 directed the BMC to forward the rectified Annexure-II to Slum Rehabilitation Authority for further necessary action. The High Power Committee further directed to reconsider the proposal of Applicant Society in accordance with law.

It is further version of Applicant Society that the said order of High Power Committee dated 07.02.2009 is challenged by Adarsh Estate CHS in Writ Petition No. 1595 of 2009 before the Hon'ble High Court. Through order dated 20.01.2014 the said Writ Petition was dismissed. Being aggrieved by the said order dated 20.01.2014, Adarsh Estate CHS and Saidham CHS filed Special Leave Petition (Civil) Nos. No 6070 of 2014 and 6204 of 2014 before the Hon'ble Supreme Court. Through common order dated 08.08.2019, the Hon'ble Supreme Court has directed all the three societies i.e. Maruti Nagar CHS (Prop.), Adarsh Estate CHS (Prop.) and Saidham CHS (Prop.) to submit their proposal independently. It is further version of

Applicant that since the year 2011 to 2018 the Applicants through various letters requested the Respondent No.1 to take steps for implementation of subject SR Scheme, but Respondent No.1 failed to take necessary steps.

According to Applicant they have also appointed M/s. M.H.S. Builders as Joint Venture to assist Respondent No.1 financially to complete subject SR Scheme. Lastly, the Applicant Society has stated that the Respondent No.1 do not have experience of redevelopment and is not in financially sound position to complete the subject SR Scheme. Inspite of permitting Respondent No.1 to avail finance from M/S. M.H.S Builders in the year 2010, the Respondent No.1 miserably failed to implement the subject SR Scheme. Therefore, through Special General Body Resolution dated 18.08.2019, the Applicant Society terminated the appointment of Respondent No.1 as Developer and appointed M/s. Shivraj Developers as their new Developer for implementation of subject SR Scheme. On these grounds the Applicant has prayed to terminate Respondent No.1 as Developer of subject SR Scheme.

#### **ISSUES**

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

#### **REASONS**

In order to ascertain as to whether there is delay and nonperformance on the part of Respondent No.1, it is necessary to look into the record of Engineering Department. The factsheet on record reveals that the proposal of subject SR Scheme on CTS No. 585(pt), 595(pt), 596(pt), 601, 602, 604, 605(pt) of Village Kandivali at Hindustan Naka, Kandivali (W) on area admeasuring 9579 sq. mtrs. is submitted by Respondent No.1 and it was accepted by this Authority





on 06.09.2005. After submission of proposal the Competent Authority had issued certified Annexure-II in the year 2006. Due to complaints regarding authenticity of documents submitted by slum dwellers, the Competent Authority cancelled the Annexure-II and the proposal was recorded on 30.12.2006 and same is later on revived pursuant to the order of Hon'ble Supreme Court. Since then the subject SR Scheme is stand still and there is absolutely no progress.

Due to dispute among members of Applicant Society, the Applicant Society is divided into three societies and these Societies have appointed different developers. There was litigation among societies and ultimately dispute reached to Hon'ble Supreme Court. The Hon'ble Supreme Court through order dated 08.08.2019 directed all the three societies to submit their separate proposal and permitted to develop independently. Accordingly the then Chief Executive Officer/SRA through order dated 06.11.2019 directed to revive the recorded file of subject SR Scheme.

It is submitted by Applicant that due to failure of Respondent No.1 to implement the scheme, the members of Applicant are languishing in squalid conditions for years together for no fault on their part. The members of Applicant Society have lost the faith in Respondent No.1 and due to it in General Body Meeting dated 18.08.2019 they have passed resolution terminating the Respondent No.1 as Developer of subject SR Scheme. During the hearing held on 10.12.2021, the Respondent No.1 remain present and argued that the delay is occurred due to various litigations before High Power Committee, High Court, Hon'ble Supreme Court and Criminal Court. According to Respondent No.1 the delay is not attributable to them.

The record clearly reveals that there is inordinate delay in implementation of subject SR Scheme. It is further version of Applicant that for last more than 15 years from the date of submission of the scheme, the Respondent No.1 has failed to show any progress in the



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subject SR Scheme and Respondent No.1 is not in financially sound position to complete the subject SR Scheme. It appears that the representative of Respondent No.1 has remain present on 10.12.2021. During the said hearing this Authority has directed the parties to submit their written submissions within the period of 8 days. Inspite of the said directions Respondent No.1 has failed to submit their say on record. The conduct of Respondent No.1 indicates that they are not interested in implementing the subject SR Scheme. There is absolutely no progress in subject SR Scheme till date. Obviously, there is delay. According to Applicant society the delay is on the part of Respondent No.1. Such inordinate delay in rehabilitation of slum dwellers is bound to frustrate the basic object of Government in introducing the Slum Rehabilitation Schemes. 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. Better Builders & Infrastructure Pvt. Ltd. is hereby terminated as developer of subject SR Scheme i.e. SR Scheme on land CTS No. 585(pt), 595(pt), 596(pt), 601, 602, 604, 605(pt) of Village Kandivali at Hindustan Naka, Kandivali (West) for "Maruti Nagar CHS Ltd".
2. The Applicant society i.e. Maruti Nagar CHS Ltd. 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: **21 JUN 2022**

Chief Executive Officer  
Slum Rehabilitation Authority

No. SRA/CEO Order/Maruti Nagar CHS Ltd./22/2022

Date: **21 JUN 2022**

Copy to:

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CTS No. 585 (pt), 604(pt), 605(pt), 1/2  
New Prabhu Chawl, Maruti Nagar,  
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A/1, Rajeshwar Accord,  
Telly Gully Cross Road,  
Andheri (E), Mumbai- 400069
4. Dy. Chief Engineer/SRA
5. Executive Engineer (R/S Ward)/SRA
6. Tahasildar-1/SRA
7. Financial Controller/SRA
8. Joint Registrar (W.S.)/SRA
9. Information Technology Officer/SRA
10. Chief Legal Consultant/SRA

