



**SLUM REHABILITATION AUTHORITY**

**BEFORE THE CHIEF EXECUTIVE OFFICER  
SLUM REHABILITATION AUTHORITY,  
Bandra (East), Mumbai  
SRA/ENG/1517/PN/ML/LOI**

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Dhanshree Developers  
A/5, Borkar Compound,  
Opp. CCI Ltd., Highway Road,  
Borivali (East), Mumbai - 400 066
2. Vivek Bhole Architects Pvt. Ltd.  
C-101, Shree Sai Tower, Sodawala Lane,  
Nutan Nagar, Borivali (West),  
Mumbai - 400 092
3. Valnai SRA CHS (Prop.)  
CTS No.2(pt.) of Village - Valnai,  
Taluka- Borivali, F- sector,  
Orlem, Marve Road, Malad (West),  
Mumbai - 400 064



... Respondents

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

**ORDER**

(Passed on 7/6/23 )

These proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing CTS No.2(pt) of Village Valnai, F- sector, Orlem, Marve Road, Malad (West), Mumbai for "Valnai SRA CHS (Prop.)" pursuant to the note of Executive Engineer/SRA dated 10.03.2023. 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.2(pt) of Village Valnai, F- sector, Orlem, Marve Road, Malad (West), Mumbai formed Respondent No.3 society i.e. "Valnai SRA 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 implementation of subject S.R. Scheme. The proposal of subject S.R. Scheme was submitted to Slum Rehabilitation Authority on land admeasuring 3373.00 sq. mtrs. The said land is owned by MCGM. The proposal of subject S.R. scheme is accepted by Slum Rehabilitation Authority on 01.08.2006. However thereafter there is absolutely no progress in subject S.R. Scheme and the Scheme is stand still. 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 Engineering department dated 10.03.2023 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 SR Scheme is at Sr. No.382. The said Public Notice dated 20.04.2022 is set aside by Hon'ble High Court through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022, Nipun Thakkar V/s. Chief Executive Officer/SRA & Anr.

Pursuant to said order, the notices were issued to the concerned parties and matter was heard on 28.03.2023, 19.04.2023 and 28.04.2023. On 28.04.2023 Advocate Priya Pande remain present for Respondent No.3. Mr. Salim Naik remain present on behalf of Respondent No.1. The parties were heard at length and matter was closed for order.



Directions were given to parties to submit their written submissions within 7 days.

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

According to Respondent No.3, occupants on the said land have formed Valnai SRA CHS (Prop.) and through General Body Resolution dated 26.05.2006 appointed Respondent No.1 as developer for redevelopment of said land. Pursuant to the appointment, the Respondent No.1 submitted proposal to Slum Rehabilitation Authority and same is accepted on 01.08.2006. According to Respondent No.3, there is delay on the part of Respondent No.1 for almost 17 years and no effective steps were taken by them even to obtain Annexure-II and other permissions. Due to inordinate delay on the part of Respondent No.1, the Respondent No.3 society through General Body Meeting dated 06.08.2022 passed a resolution for termination of Respondent No.1 as developer. On these grounds the Respondent No.3 has prayed to terminate the Respondent No.1 as Developer of subject SR Scheme.

### **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 01.08.2006. However thereafter there is absolutely no progress in subject SR Scheme and the Scheme is stand still. The period of more than 17 years has passed and till date not a single slum dweller is rehabilitated. It is the version of Respondent No.3 society that there is delay on the part of Respondent No.1 since the acceptance.

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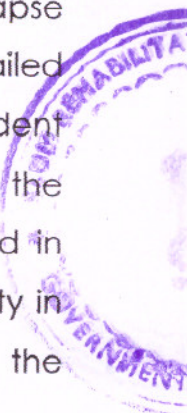
In the meanwhile this Authority has recorded 517 dormant proposals through Public Notice dated 20.04.2022 in which the developers and societies have failed to take necessary steps. In said list of 517 Schemes, the subject S.R. Scheme is at Sr. No.382. The said Public Notice dated 20.04.2022 is set aside by Hon'ble High Court through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022, Nipun Thakkar V/s. Chief Executive Officer/SRA & Anr.

From record it appears 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 has 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".***

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.

It is the version of Respondent No.3 society that even after lapse more than 17 years from the date of acceptance, the developer failed to obtain permissions. It is further version of Applicant that Respondent No.1 has failed to show any progress in subject SR Scheme since the year 2006 which indicates that Respondent No.1 is not interested in implementing the subject SR Scheme. The Respondent No.3 society in General Body Meeting dated 06.08.2022 has terminated the appointment of Respondent No.1 as developer.

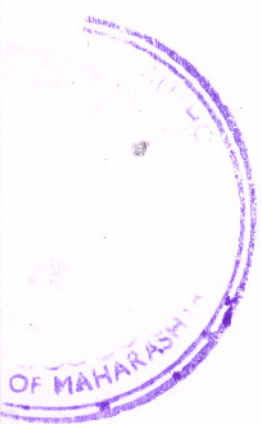




The Respondent No.1 did not file any say on record. This approach of Respondent No.1 shows that they are not interested in implementing the subject SR Scheme. The developers implementing the Slum Rehabilitation Schemes are expected to complete the same within reasonable time. The Slum Rehabilitation 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. There is no progress at all and scheme is stand still. The period of more than 17 years is considerable period. Obviously, there is delay in implementation of subject S.R. Scheme. Such inordinate delay in rehabilitation of slum dwellers is bound to frustrate the basic object of Government in introducing the Slum Rehabilitation Schemes.

Due to delay on the part of developer the noble object behind introducing the S.R. Scheme is getting frustrated. This Authority being a Planning and Project Management Authority can't be a mute spectator to such nonperformance. 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 the 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.***





***Developer 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 and 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."***

Considering these facts and circumstances this Authority has come to conclusion that there is non-performance and inordinate delay on the part of Respondent No.1 in implementation of subject S.R. Scheme and Respondent No.1 is liable to be terminated as developer of subject S. R. Scheme. Accordingly following order is passed.

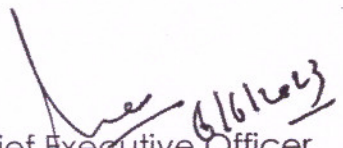


### ORDER

1. The Respondent No.1 i.e. M/s. Dhanshree Developers is hereby terminated as Developer of S.R. Scheme on land bearing CTS No.2(pt) of Village Valnai, F- sector, Orlem, Marve Road, Malad (West), Mumbai for "Valnai SRA CHS (Prop.)"
2. The Respondent No.3 i.e. Valnai SRA CHS (Prop.) is at liberty to appoint new developer of its choice in accordance with rules, regulation and policy of Slum Rehabilitation Authority.
3. The new incoming developer to reimburse the actual expenses incurred by Respondent No.1 as per provisions of section 13(3) of Maharashtra Slum Areas (I, C & R) Act, 1971.

Place:- Mumbai

Date:- **7 JUN 2023**

  
Chief Executive Officer  
Slum Rehabilitation Authority

No.SRA/CEO/13(2)/Valnai SRA CHS (Prop.)/3 /2023

Date: **7 JUN 2023**

Copy to:

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Opp. CCI Ltd., Highway Road,  
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2. Vivek Bhole Architects Pvt. Ltd.  
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CTS No.2(pt.) of Village - Valnai,  
Taluka- Borivali, F- sector, Orlem, Marve Road,  
Malad (West), Mumbai - 400 064
4. Deputy Chief Engineer/SRA
5. Executive Engineer (P/N Ward)/SRA
6. DSLR/SRA
7. Tahsildar-1/SRA
8. Finance Controller/SRA
9. Chief Legal Consultant/SRA
10. Joint Registrar (W.S.)/SRA
11. IT Officer/SRA

