

**SLUM REHABILITATION AUTHORITY**

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

**File No. SRA/ENG/362/GS/ML/LOI**

Ganesh Nagar 'D' SRA CHS Ltd.  
C.S. No.1 (pt) & 2 (pt), Lower Parel Division  
J. R. Boricha Marg, Saat Rasta, Dhobighat,  
Mumbai.

... Applicant

V/s

1. Slum Rehabilitation Society  
Ganesh Nagar 'D' SRA CHS Ltd.  
C.S. No.1 (pt) & 2 (pt), Lower Parel Division  
J. R. Boricha Marg, Saat Rasta, Dhobighat,  
Mumbai

2. M/s. R.M. Warriar & Associates  
B 206, Mahalaxavilla, Off Veera Desai Road,  
Andheri (West), Mumbai 400 058



... Respondents

**ORDER**

(Passed on - **30 APR 2024**)

The present proceedings are initiated pursuant to application of Applicant dated 05.07.2023 in respect of Slum Rehabilitation Scheme on land C.S. No.1(pt) & 2(pt) of Lower Parel Division at J.R. Boricha Marg, Saat Rasta, Dhobighat for "Ganesh Nagar 'D' SRA 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;

**BRIEF FACTS:**

The slum dwellers residing on plot of land bearing C.S. No.1(pt) & 2(pt) of Lower Parel Division at J.R. Boricha Marg, Saat Rasta, Dhobighat have formed Ganesh Nagar 'D' SRA CHS Ltd. 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 17.05.1999. The land under the subject SR Scheme admeasuring 3827.16 sq. mtrs. is owned by MCGM. The certified Annexure-II is issued by Competent Authority on 06.01.1999 for total 390 eligible slum dwellers. Letter of Intent was issued on 02.01.2003. Intimation of Approval to Composite building no.1 wing A to E is issued on 26.09.2003 and the same is lastly amended on 15.02.2007. Full Commencement Certificate to composite building no.1 wing A to C is issued on 18.04.2006 and wing D and E issued on 18.06.2011. Part Occupation Certificate to composite building no.1 wing A, B and C is issued on 13.04.2006 for 107 tenements. The Occupation Certificate for Composite building no.1 wing D & E is not yet applied. Thereafter, no further permission is issued to subject SR Scheme and the scheme is stand still.

Due to inordinate delay in implementation of subject SR Scheme, the Applicant submitted application dated 05.07.2023 for termination of Respondent No.1 as Developer. Pursuant to said application a note dated 09.08.2023 was submitted by Tahasildar-1/SRA for initiating action 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 05.09.2023. On said day representatives of Applicant Society remain present. Shri. Yorick Fonseca remain present on behalf of Respondent No.1. Heard both the parties and matter was closed for order. Directions were given to parties to submit their written submission within 7 days.

#### **ARGUMENT OF APPLICANT SOCIETY**

According to Applicant the implementation of subject SR Scheme is initiated since the year 1998. The Annexure-II of subject SR Scheme was issued

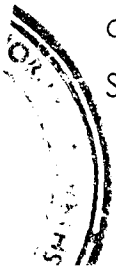


on 09.01.1999 for 390 slum dwellers. It is contended by Applicant that before issuance of Annexure-II around 30 to 40 slum dwellers have sold their huts. It is further version of Applicant that after issuance of Annexure-II around 100 slum dwellers have sold their huts so there are around 130 to 140 slum dwellers who are not the members of the Applicant society. According to Applicant the subject SR Scheme is delayed for last 20 to 22 years. The delay is caused due to reduction of area of subject SR Scheme from 3827.16 sq. mtrs. to 3443.31 sq. mtrs. Due to such reduction the construction of remaining building in 2.5 FSI is not possible. Without allowing the 3.00 FSI to the subject SR Scheme, the scheme cannot be proceed further. It is further version of Applicant that the part Occupation Certificate to rehab building no.1 wing A, B and C was granted in the year 2006. It is the case of Applicant that they had called the General Body Meetings during the year 2006 to 2023 for appointment of new developer as self-development was not possible for them. There is delay on the part of Respondent No.1 for more than 23 years and on these grounds the Applicant has prayed to appoint new developer in subject SR Scheme.

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

According to the Respondent No.1 they are appointed as the Assisting NGO Agency to the subject SR Scheme in the year 1999. It is alleged by the Respondent No.1 that criminal complaint was filed against Chairman and Secretary of Applicant society alleging irregularities with regard to misuse of TDR-sale generated funds. The investigation is still going on at Agripada Police Station, Economic Offences Wing, etc.

Due to this reason the scheme could not be completed and the same is halted for some time. It is further version of Respondent No.1 that there are several Administrators appointed by this Authority to investigate the issue. Recently one Mr. Aroskar was appointed as Administrator and his appointment is also challenged by Applicant before Registrar of Cooperative Societies, Malhotra House. According to Respondent No.1 they are unaware



about General Body Meeting which was held on 13.05.2023 as they were not intimated about the same. On these grounds the Respondent No.1 has prayed to drop the present proceedings.

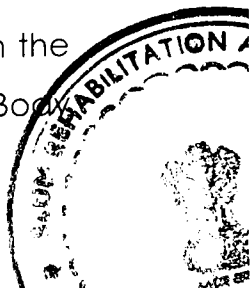
### **ISSUES**

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**

The slum dwellers residing on plot of land bearing C.S. No.1(pt) & 2(pt) of Lower Parel Division at J.R. Boricha Marg, Saat Rasta, Dhobighat have formed Ganesh Nagar 'D' SRA CHS Ltd. 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 17.05.1999. The land under the subject SR Scheme admeasuring 3827.16 sq. mtrs. is owned by MCGM. The certified Annexure-II is issued by Competent Authority on 06.01.1999 for total 390 eligible slum dwellers. Letter of Intent was issued on 02.01.2003. Intimation of Approval to Composite building no.1 wing A to E is issued on 26.09.2003 and the same is lastly amended on 15.02.2007. Full Commencement Certificate to composite building no.1 wing A to C is issued on 18.04.2006 and wing D and E issued on 18.06.2011. Part Occupation Certificate to composite building no.1 wing A, B and C is issued on 13.04.2006 for 107 tenements. The Occupation Certificate for Composite building no.1 wing D & E is not yet applied. Thereafter, no further permission is issued to subject SR Scheme and the scheme is stand still.

It is the version of Applicant that there is delay of more than 20-22 years in implementation of the subject SR Scheme. Due to inordinate delay on the part of Respondent No.1, the Applicant has called the Special General Body



Meeting on 13.05.2023 and decided to terminate the appointment of Respondent No.1 and decided to appoint new developer of their choice.

As against this, it is contended by Respondent No.1 that they are appointed as the Assisting NGO Agency for implementation of subject SR Scheme in the year 1999. It is alleged by Respondent No.1 that the criminal complaint was filed against Chairman and Secretary of Applicant society alleging irregularities with regard to misuse of TDR-sale generated funds and due to which the scheme could not be completed. Further it is the version of Respondent No.1 that they are unaware about the General Body Meeting which was held on 13.05.2023 as they were not intimated about the same. The delay is not attributable to them but the same is occurred due to reduction of area of subject SR Scheme from 3827.16 sq. mtrs. to 3443.31 sq. mtrs because of which the construction of remaining building in 2.5 FSI was not possible.

The record clearly reveals that there is inordinate delay in implementation of subject SR Scheme for more than 25 years from the date of submission of the scheme. 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 Supreme Court of India in Civil Appeal No.(s) 18121 of 2017, Susme Builders Pvt. Ltd. V/s. Chief Executive Officer, Slum Rehabilitation Authority & Ors. are relevant. The Supreme Court has categorically held that under Section 13(2) of the Slums Act, the SRA has an authority to take an action and hand over the development of land to some



*[Handwritten signature]*

other agency under three circumstances, one of them being when the development has not taken place within time, if any specified. The Supreme Court in such case had upheld the contention of the slums society, that the petitioner therein had not completed the project within time and hence an action was taken under Section 13(2) of the Slums Act. The Court observed that the action taken by the SRA to remove the petitioner as a developer by cancelling the Letter of Intent (LOI) issued in favour of the petitioner was justified. The relevant observation of Hon'ble High Court are as under;

**"48. Otherwise, there would be an anomalous situation where the Society would have terminated its contract with Susme but the letter of intent issued by the SRA would continue to hold the field and it would be entitled to develop the land. The Society approached the SRA, in fact, asking it to take action against Susme. Since the SRA is the authority which issued the letter of intent, it will definitely have the power to cancel the letter of intent"**

**51. A bare reading of these provisions shows that in terms of clause (c) and (d) of sub-section (3) of Section 3A of the Slum Act, the SRA not only has the power, but it is duty bound to get the slum rehabilitation scheme implemented and to do all such other acts and things as will be necessary for achieving the object of rehabilitation of slums. In this case, the SRA was faced with a situation where the slum dwellers were suffering for more than 25 years and, therefore the action taken by SRA to remove Susme for the unjustified delay was totally justified."**

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. Slum Rehabilitation Society is hereby terminated as developer of subject SR Scheme i.e. SR Scheme on land C.S. No.1(pt) & 2(pt) of Lower Parel Division at J.R. Boricha Marg, Saat Rasta, Dhobighat for "Ganesh Nagar 'D' SRA CHS Ltd".
2. The Applicant society i.e. Ganesh Nagar 'D' SRA 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 as per provisions of section 13(3) of Maharashtra Slum Areas (I,C & R) Act, 1971.
4. The newly appointed developer to comply with the circular no.210 of Slum Rehabilitation Authority.

Place:- Mumbai

Date:- 30 APR 2024

  
Chief Executive Officer  
Slum Rehabilitation Authority

No. SRA/CEO Order/Ganesh Nagar 'D'SRA CHS Ltd./ 46/2024

Date: 30 APR 2024

Copy to:

1. Ganesh Nagar 'D' SRA CHS Ltd.  
C.S. No.1 (pt) & 2 (pt), Lower Parel Division  
J. R. Boricha Marg, Saat Rasta, Dhobighat,  
Mumbai
2. Slum Rehabilitation Society  
Ganesh Nagar 'D' SRA CHS Ltd.  
C.S. No.1 (pt) & 2 (pt), Lower Parel Division  
J. R. Boricha Marg, Saat Rasta, Dhobighat,  
Mumbai
3. M/s. R.M. Warriar & Associates  
B 206, MahalasaVilla, Off Veera Desai Road,  
Andheri (W), Mumbai- 400 058
4. Dy. Chief Engineer/SRA
5. Executive Engineer (G/S Ward)/SRA



6. Deputy Collector (Special Cell)/SRA
7. Financial Controller/SRA
8. Assistant Registrar (City)/SRA
- ✓ 9. Information Technology Officer/SRA
10. Chief Legal Consultant/SRA

