



**SLUM REHABILITATION AUTHORITY  
BEFORE THE CHIEF EXECUTIVE OFFICER  
SLUM REHABILITATION AUTHORITY,  
Bandra (East), Mumbai**

**SRA/ENG/2206/KE/PL/LOI**

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Landmark Abodes Pvt. Ltd.  
182/14, 3<sup>rd</sup> Floor, Haji Habib Bldg.,  
Naigaon, Cross Road, Dadar (East),  
Mumbai - 400 014
2. M/s. New Vision Arch,  
527, Gagansagar Society, Eksar Road,  
Borivali (West), Mumbai - 400 091
3. Om Gagangiri CHS (Prop.)  
Hari Om CHS (Prop.)  
Om Vakratund Gondavali CHS (Prop.)  
Amar Mitra Mandal, Gondavali Hill,  
Mogra Village, Andheri (East),  
Mumbai - 400 069



... Respondents

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

**ORDER**

(Passed on 07.07.2023)

These proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing CTS No.166(pt), 166/27 to 38, (107 to 121), 123, 126, 127 (139 to 426), 167 of Village Mogra for "Om Gagangiri CHS (Prop.), Hari Om CHS (Prop.) & Om Vakratund Gondavali CHS (Prop.)" pursuant to the note of Deputy Chief Engineer dated 29.03.2023. 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.166(pt), 166/27 to 38, (107 to 121), 123, 126, 127 (139 to 426), 167 of Village Mogra formed Respondent No.3 societies i.e. "Om Gagangiri CHS (Prop.), Hari Om CHS (Prop.) & Om Vakratund Gondavali CHS (Prop.)" and in General Body Meeting resolved to redevelop the said land by implementing the Slum Rehabilitation Scheme. The Respondent No.3 societies 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 10223.00 sq. mtrs. The said land is privately owned. The proposal of subject S.R. scheme is accepted by Slum Rehabilitation Authority on 17.06.2009. The Competent Authority has issued Annexure-II on 09.03.2021 for total 652 slum dwellers out of which 254 slum dwellers were declared as eligible. However thereafter there is absolutely no progress in subject S.R. Scheme and the Scheme is stand still.

The note of Engineering department dated 29.03.2023 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.118. 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 20.04.2023 and 05.06.2023. On said day Advocate Ankit Dubey appeared on behalf of Respondent No.1. Advocate Rishi Mishra present for Respondent No.3 societies. 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.1**

It is the version of Respondent No.1 that the Respondent No.3 societies have appointed them as developer of subject SR Scheme. The proposal of subject SR Scheme is submitted in the year 2009 and the same is duly accepted. Thereafter, the proposal for issuance of Annexure-II is forwarded to Competent Authority for certification of eligibility of slum dwellers. It is further version of Respondent No.1 that one Mr. Damodar Bhutta & Ors. filed Suit (L) No.3611 of 2009 in the Hon'ble High Court against them. In said Suit the Hon'ble High Court through order dated 16.12.2009 directed the parties to maintain status quo in respect of Suit property. Pursuant to said order of status quo the Competent Authority through letter dated 16.11.2011 has refused to decide the eligibility of slum dwellers.

It is further version of Respondent No.1 that the then Chief Executive Officer/SRA through order dated 28.05.2015 directed the Competent Authority to decide the eligibility of slum dwellers and issue certified Annexure-II and further directed not to issue Letter of Intent till the order of status quo is vacated by the Hon'ble High Court. The said status quo was vacated by Hon'ble High Court on 25.06.2015. It is further version of Respondent No.1 that the directions of the then Chief Executive Officer/SRA were communicated to the Competent Authority through letter dated 11.08.2015. Pursuant to the said directions, the Competent Authority prepared draft Annexure-II in the year 2015. Despite the directions of the then Chief Executive Officer/SRA as well as status quo order being vacated, the Competent Authority refused to process the Annexure-II and through letter dated 01.08.2016 again returned the entire file to this Authority.

It is the case of Respondent No.1, that this Authority through another letter dated 18.10.2016 directed the Competent Authority to

decide the eligibility of slum dwellers and issue certified Annexure-II. Thereafter the Competent Authority once again through letter dated 13.06.2017 refused to decide the eligibility of slum dwellers on the basis of earlier survey by stating that the said Slum Rehabilitation Scheme requires "MAHA ONLINE" survey. According to Respondent No.1 in the meantime the Deputy Collector/SRA has initiated suo-moto proceedings u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 against them on the ground of inordinate delay and accordingly the Deputy Collector/SRA through order dated 05.04.2018 directed the Competent Authority to decide the eligibility of slum dwellers as expeditious. The said order was challenged by some disgruntled slum dwellers before the Hon'ble Apex Grievance Redressal Committee by filing Application (L) No.120 of 2018. The matter was heard by Hon'ble Apex Grievance Redressal Committee on 08.06.2018 and directions were given to Deputy Collector to verify the 70% consent of slum dwellers in favour of developer and submit report. The said Application is still pending for hearing and there is no any interim order passed in said matter.

It is the version of Respondent No.1 that through letter dated 02.06.2018, the Deputy Collector/SRA has informed the Competent Authority that the survey is already done in the year 2009 and draft Annexure-II is issued and therefore survey of MHA ONLINE is not required. Through another letter dated 20.01.2021 again Competent Authority rejected the file of Annexure-II stating that biometric has not been done at the time of survey. But thereafter through another letter dated 15.02.2021 this Authority informed the Competent Authority that biometric is already done.

According to Respondent No.1, after repeated follow ups by them and after various efforts the certified Annexure-II of the subject SR Scheme was issued on 09.03.2021 for total 652 slum dwellers out of which 254 were declared as eligible. The 17 structures found closed, 92





structures as undecided for want of documentary proofs and 200 structures are undecided due to pending verification by concerned departments. In respect of undecided structures also notices were issued by Competent Authority but till date survey is not completed. It is alleged by Respondent No.1 that the subject SR Scheme was recorded at Sr. No.118 through Public Notice dated 20.04.2022 with reason that the said proposal is submitted prior to the year 2014 and is stalled due to non-fulfillment of necessary requirements by developer. It is the case of Respondent No.1 that the said Public Notice was set aside by Hon'ble High Court in Writ Petition (L) No.14017 of 2022 through order dated 10.01.2023. In the meanwhile Tahsildar-1/SRA has submitted its report dated 08.05.2023 to the Hon'ble Apex Grievance Redressal Committee stating that the Annexure-II is certified on 09.03.2021 and developer has 100% consent in the form of bond paper.

According to Respondent No.1 the delay is not attributable to them and they being the land owner they have the first preferential right to implement the subject SR Scheme. The Authorized Committee and slum dwellers are supporting them for implementation of subject SR Scheme. One Kishore Gajanan Bankar claiming to be Chief Promoter of Hari Om SRA CHS (Prop.) is ineligible till date and has no locus to hold post of any society. On these grounds the Respondent No.1 has prayed to drop the present proceedings initiated against them.

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

It is the version of Respondent No.3 that they have appointed Respondent No.1 as developer for implementation of subject SR Scheme and they have full trust and confidence on them for implementation of subject SR Scheme. There is no delay on the part of Respondent No.1. The delay is occurred due to frivolous litigations filed by erstwhile land owners as well as on the part of luster attitude of Competent Authority.

It is further version of Respondent No.3 that the then Chief Executive Officer/SRA through order dated 28.05.2015 directed the Competent Authority to decide the eligibility of slum dwellers and issue certified Annexure-II and further directed not to issue Letter of Intent till the order of status quo is vacated by the Hon'ble High Court. But after repeated follow ups on the part of Respondent No.1, the Competent Authority issued Annexure-II in the year 2021. Earlier also proceedings u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 were initiated against Respondent No.1 by some of the disgruntled members at the instance of rival developer. But the Deputy Collector/SRA through order dated 05.04.2018 rejected the contentions of these slum dwellers and directed the Competent Authority to decide the eligibility of slum dwellers expeditiously. The said order was challenged by some disgruntled slum dwellers before the Hon'ble Apex Grievance Redressal Committee by filing Application (L) No.120 of 2018. The matter was heard by Hon'ble Apex Grievance Redressal Committee on 08.06.2018 and directions were given to Deputy Collector to verify the 70% consent of slum dwellers in favour of developer and submit report. The consent of more than 70% consent is also confirmed by Tahsildar/SRA in his report submitted before the Hon'ble Apex Grievance Redressal Committee. On these grounds the Respondent No.3 has prayed to drop the present proceedings initiated against them.

### 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 17.06.2009. The Annexure-II is issued by Competent Authority on 09.03.2021 for total 652 slum dwellers, out of



which 254 were declared as eligible. Thereafter no permissions is issued and the Scheme is stand still. It is submitted on behalf of Respondent No.1 that the delay is not attributable to them but the same is occurred due to order of status quo granted by Hon'ble High Court since the year 2009 to 2015.

The record reveals that one Mr. Damodar Bhutta & Ors. have filed Suit (L) No.3611 of 2009 in Hon'ble High Court. The official website of Hon'ble High Court reveals that the said Suit is still pending. The Slum Rehabilitation Authority is not party to said Suit. Through order dated 16.12.2009 the Hon'ble Court has directed the parties to maintain status quo till 13.01.2010. The record further reveals that in said Suit a Notice of Motion was taken out by Plaintiffs therein i.e. Mr. Damodar Bhutta & Ors. Further from order dated 25.06.2015 it appears that the Plaintiffs in said Suit have executed Power of Attorney dated 03.09.2005 in favour of Defendant, Landmark Construction Company and on the basis of said Power of Attorney, three Conveyance Deeds were executed by Landmark Constriction Company in favour of themselves only and one Conveyance Deed is executed by the son of Plaintiff No.3 in said Suit. These Conveyances were in respect of total admeasuring 10622.72 sq. mtrs. The order further reveals that only two Conveyance Deeds were challenged in Suit (L) No.3611 of 2009. In Notice of Motion Plaintiff has sought interim relief and the Hon'ble High Court has disposed of the Notice of Motion without granting any interim relief.

The Advocate for Respondent No.1 submitted that during the year 2009 to 2015, the Respondent No.1 was entangled in litigation in which status quo order was granted in respect of Suit property due to which they could not make necessary application to Slum Rehabilitation Authority for obtaining permissions. After the order dated 25.06.2015, the Respondent No.1 was in process of taking necessary steps, but due to failure on the part of Competent Authority to issue Annexure-II they could not proceed further till the year 2021. Even the then Chief

Executive Officer/SRA through order dated 28.05.2015 directed the Competent Authority to decide the eligibility of slum dwellers and issue certified Annexure-II and further directed not to issue Letter of Intent till the order of status quo is vacated by the Hon'ble High Court. In spite of vacating the status quo order in the year 2015. In support of said contention the Respondent No.1 has produced on record the copy of letter of Deputy Collector/SRA to Competent Authority. From contents of said letter it appears that the directions were given to Competent Authority to decide the eligibility of slum dwellers. The Competent Authority issued Annexure-II on 09.03.2021 for the reasons best known to him.

The record further reveals that this Authority has initiated suo-moto proceedings u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 against Respondent No.1 on the account of inordinate delay and after hearing the parties the Deputy Collector/SRA passed the order on 05.04.2018 & dropped the proceedings. The copy of order is on record. While passing the order the Deputy Collector has also directed the Competent Authority to decide the eligibility of slum dwellers expeditiously. The said order was challenged by some disgruntled slum dwellers before the Hon'ble Apex Grievance Redressal Committee by filing Application (L) No.120 of 2018. The matter was heard by Hon'ble Apex Grievance Redressal Committee on 08.06.2018 and directions were given to Deputy Collector to verify the 70% consent of slum dwellers to Respondent No.1 and submit report. The copy of order dated 08.06.2018 is on record. The said Application is still pending for hearing and there is no any interim order passed in said matter. The Tahsildar-1/SRA has also submitted its report dated 08.05.2023 to the Hon'ble Apex Grievance Redressal Committee stating that the Annexure-II is certified on 09.03.2021 and developer has 100% consent in the form of bond paper.



  
Tahsildar-1/SRA



The record reveals that through various letters/order this Authority has directed the Competent Authority to issue certified Annexure-II to subject SR Scheme after vacating the status quo order and the same is issued on 09.03.2021. The society has not made demand for change of developer. The present proceeding is initiated pursuant to note of Engineering department dated 29.03.2023. 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.118. 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. It is the version of Respondent No.1 that inspite of several directions of this Authority, the Competent Authority failed and neglected to issue Annexure-II till the year 2021. Even in written submissions of Respondent No.3 societies they admitted that the delay is occurred due to failure of Competent Authority to issue Annexure-II. The society in written submissions has shown full trust and support to Respondent No.1 for implementation of subject SR Scheme. During the hearing held on 05.06.2023, the Respondent No.3 societies also shown trust in Respondent No.1.

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 facts of present case it will

not be proper to terminate the Respondent No.1 as developer merely due to non-issuance of Annexure-II by Competent Authority.

It is pertinent to note that the Respondent No.1 is owner of the land of subject SR Scheme. In the event of termination of Respondent No.1, the societies will be required to move proposal for acquisition of said land for which considerable time will be required. Moreover the possibility of litigation cannot be ruled out. Considering these facts and circumstances this Authority is of opinion that there is no intentional delay on the part of Respondent No.1 and reasonable time needs to be given to Respondent No.1 for implementation of subject SR Scheme. Accordingly following order is passed.

**ORDER**

1. The Proceedings against Respondent No.1 i.e. M/s. Landmark Abodes Pvt. Ltd. are hereby dropped.
2. The Respondent No.1 is directed to submit bar chart regarding time bound implementation of the subject SR Scheme.
3. The Executive Engineer/SRA is directed to visit the site periodically and to ensure the timely completion of the scheme.

Place:- Mumbai

Date:-

  
Chief Executive Officer  
Slum Rehabilitation Authority



No.SRA/CEO/13(2)/Om Gagangiri CHS (Prop) & 2 Ors./ **36** /2023

Date: **07 JUL 2023**

Copy to:

1. M/s. Landmark Abodes Pvt. Ltd.  
182/14, 3<sup>rd</sup> Floor, Haji Habib Bldg.,  
Naigaon, Cross Road, Dadar (East),  
Mumbai - 400 014
2. M/s. New Vision Arch,  
527, Gagansagar Society, Eksar Road,  
Borivali (West), Mumbai - 400 091



3. Om Gagangiri CHS (Prop.)  
Hari Om CHS (Prop.)  
Om Vakratund Gondavali CHS (Prop.)  
Amar Mitra Mandal, Gondavali Hill,  
Mogra Village, Andheri (East),  
Mumbai - 400 069
4. Deputy Chief Engineer/SRA
5. Executive Engineer (K/E 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

