

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

**File No. SRA/ENG/760/STGL/LOI**

Shiv Shastri Nagar Macchimar CHS (Prop.)  
Represented through Smt. Vandana Dattatray Garud  
Shiv Shastri Nagar, Captain Prakash  
Pethe Marg, Cuffee Parade,  
Colaba, Mumbai - 400 005

V/s

1. Lara Tech (India) Pvt. Ltd.  
Logetech Park, Parke Devis Complex,  
M.V. Road, Andheri (East), Mumbai
2. M/s. Studio Essemble,  
Care Center, Opp. Shivalik Society,  
Milti Road, Marol, Andheri (East),  
Mumbai - 400 059
3. Shiv Shastri Nagar Macchimar CHS (Prop.)  
Represented through Mr. Bhagwan Raghunath Banargee  
Shiv Shastri Nagar, Captain Prakash  
Pethe Marg, Cuffee Parade,  
Colaba, Mumbai - 400 005

... Applicant

... Respondents

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

**ORDER**

**(Passed on - 12 8 DEC 2023)**

The present proceedings are initiated pursuant to application of Applicant in respect of Slum Rehabilitation Scheme on land bearing Plot No.105, 106, 107, 108 & 109, BBRS-IV of Colaba Division, Captain Prakash Pethe Marg, Colaba, Mumbai - 400 005 for "Shiv Shastri Nagar Macchimar CHS (Prop.)". Hereinafter the abovesaid Slum Rehabilitation Scheme is referred to



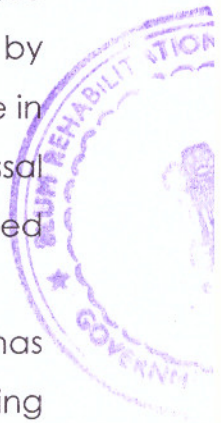
and called as "subject SR Scheme". In brief the facts which lead to present proceedings are as under;

**BRIEF FACTS:**

The slum dwellers residing on plot of land bearing Plot No.105, 106, 107, 108 & 109, BBRS-IV of Colaba Division, Captain Prakash Pethe Marg, Colaba, Mumbai - 400 005 have formed Shiv Shastri Nagar Macchimar CHS (Prop.) and resolved to redevelop the land in their occupation by implementing the Slum Rehabilitation Scheme. Accordingly Shiv Shastri Nagar Macchimar CHS (Prop.) 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 12.03.2003. The land under the subject SR Scheme admeasuring 10316.90 sq. mtrs. is owned by State Government. The certified Annexure-II is issued by Competent Authority on 31.12.2002 for 419 slum dwellers out of which 174 slum dwellers are declared as eligible. Thereafter, no further permission is issued to subject SR Scheme and the scheme is stand still.

The note of Deputy Collector (Special Cell)/SRA dated 29.11.2023 is on record. From said note it appears that, 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.2. The said Public Notice dated 20.04.2022 to the extent of subject SR Scheme is challenged by Respondent No.1 before the Hon'ble Apex Grievance Redressal Committee in Application (L) No.109 of 2022 and the Hon'ble Apex Grievance Redressal Committee through order dated 23.06.2022 set aside the Public Notice dated 20.04.2022 only to the extent of subject SR Scheme.

The record further reveals that in the meantime one Nipun Thakkar has also 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 paragraph no.13 of the order made following observations;

***"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".***

The note of Deputy Collector further reveals that one Smt. Vandana Dattatray Garud claiming to be Chief Promoter of Society submitted an Application dated 07.06.2023 for termination of Respondent No.1 as Developer, on account of inordinate delay. Pursuant to said application a note dated 03.07.2023 was submitted by Tahasildar-1/SRA for initiating action u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 and accordingly notices of hearing were issued to the concern parties and the matter was heard on 08.12.2023. On said day Smt. Vandana Garud, Applicant present. Adv. Suresh Kamble appeared on behalf of Respondent No.1. Mr. Bhagwan Raghunath Banargee, Respondent No.3 also remain present. Heard all parties and matter was closed for order. Directions were given to parties to submit written submission within 15 days.

**ARGUMENT OF APPLICANT THROUGH SMT. VANDANA DATTATRAY GARUD**

According to Applicant, she is the Chief Promoter of Shiv Shastri Nagar Macchimar CHS (Prop.) as per General Body Resolutions dated 30.04.2023. It is further version of Applicant that occupants on the said land have formed Shiv Shastri Nagar Macchimar CHS (Prop.) and through General Body Resolution they 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 12.03.2003. It is further version of Applicant that through General Body Resolution dated 02.10.2016, Mr. Bhagwan Raghunath Banergee was appointed as Chief Promoter. In said Meeting she was also considered as member and also casted her vote. According to Applicant lastly the General Body Meeting of Society was held

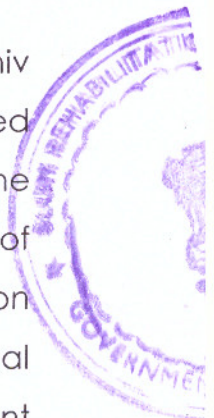


on 07.01.2018 and thereafter no Meetings were conveyed as per circular no.169 of SRA. The Applicant further prayed for revision of Annexure-II as per latest GR issued by Government.

According to Applicant the shareholding pattern of Respondent No.1 Company is changed and the same is not informed to this Authority. Even the entity of Company from Private Limited to Limited Liability Partnership was also changed. It is further version of Applicant that she is spouse of Mr. Bhimrao Dattatray Garud whose name is reflected in Annexure-II of subject SR Scheme. In the meantime this Authority through Public Notice dated 20.04.2022 recorded the subject SR Scheme alongwith 516 other Schemes. The said Public Notice dated 20.04.2022 to the extent of subject SR Scheme was challenged by Respondent No.1 before the Hon'ble Apex Grievance Redressal Committee in Application No.109 of 2022 and Hon'ble Apex Grievance Redressal Committee through order dated 23.06.2022 set aside the said Public Notice only to the extent of subject SR Scheme and thereby restored the proposal. There is delay on the part of Respondent No.1 for almost 20 years. The Respondent No.1 has also not paid land premium to this Authority. According to Applicant through General Body Resolution dated 30.04.2023 she is appointed as Chief Promoter and in said Meeting the appointment of Respondent No.1 is also terminated. The Respondent No.1 is also not complying with the circular no.210 of SRA in respect of payment of transit rent. On these grounds Applicant prayed to terminate the appointment of Respondent No.1 as developer.

**ARGUMENT OF RESPONDENT NO.3 THROUGH MR. BHAGWAN RAGHUNATH BANARGEE**

According to Respondent No.3, he is the Chief Promoter of the Shiv Shastri Nagar Macchimar CHS (Prop.) as per General Body Resolutions dated 02.10.2016 & 07.01.2018. The Annexure-II of subject SR Scheme is issued in the year 2002 and its reverification is in process due to change in datum line of eligibility. It is further version of Respondent No.3 that through CRZ Notification dated 18.01.2019 the earlier terms and conditions were relaxed. The proposal of subject SR Scheme is affected by RG/PG reservation and after amendment





in DCPR, 2034 the proposal is now processed further. It is further version of Respondent No.3 that the present Application dated 07.06.2023 is submitted by self-proclaimed Chief Promoter Smt. Vandana Garud and there is no any resolution for her appointment as Chief Promoter. The said Smt. Vandana Garud has forged the letterhead of Shiv Shastri Nagar Macchimar CHS (Prop.). The proposal of Respondent No.1 is recorded through Public Notice dated 20.04.2022 alongwith 516 other Schemes. The said Public Notice dated 20.04.2022 to the extent of subject SR Scheme was challenged by Respondent No.1 before the Hon'ble Apex Grievance Redressal Committee in Application No.109 of 2022 and Hon'ble Apex Grievance Redressal Committee through order dated 23.06.2022 set aside the said Public Notice only to the extent of subject SR Scheme and thereby restored the proposal. On these grounds Respondent No.3 prayed to drop the present proceedings.

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

It is the version of Respondent No.1 that in the year 1999 the Shiv Shastri Nagar Macchimar CHS (Prop.) executed Development Agreement and Power of Attorney in their favour to implement the subject SR Scheme. Through General Body Resolution the members of society unanimously appointed them as developer. The certified Annexure-II was issued in the year 2002. The plot under the subject SR Scheme is affected due to RG/PG reservation and there is restraining order of Hon'ble High Court in Writ Petition No.1152 of 2002. In the said Writ Petition the society has also moved Chamber Summon No.107 of 2008 for intervening in said Writ Petition and seeking stay to be vacated. Through order dated 29.04.2010 the Hon'ble High Court has allowed intervention of Society and directed SRA to consider modification of development plan.

According to Respondent No.1 through CRZ Notification dated 06.01.2011 the Government has allowed to develop the affected land at the ratio of 51:49. In the year 2016 through General Body Resolution the society has shown support to Respondent No.1. It is further version of Respondent No.1 that through another General Body Meeting dated 07.01.2018 a resolution is passed in presence of Co-operative officer of SRA for re-appointment of Respondent





No.1. The Application for Letter of Intent is submitted by Respondent No.1 in compliance with all requirement and conditions. In the meantime this Authority recorded the proposal of subject SR Scheme and the same is set side by Hon'ble Apex Grievance Redressal Committee through order dated 23.06.2022.

According to Respondent No.1, Smt. Vandana Dattatray Garud is not member of Applicant society and her name is also not reflected in Annexure-II. There is total misrepresentation on the part of Smt. Vandana Dattatray Garud who is claiming to be Chief Promoter of Society. A police complaint is also filed in Police Station for fabrication of letterhead. On these ground Respondent No.1 has prayed to reject the Application submitted by Applicant at the instance of alleged Chief Promoter Smt. Vandana Garud.

#### **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**

Before proceeding to discuss the rival contentions it is necessary to look into the factual aspects of subject S.R. Scheme. The proposal of subject S. R. Scheme is accepted by this Authority on 12.03.2003 on land bearing Plot No.105, 106, 107, 108 & 109, BBRS-IV of Colaba Division, area admeasuring 10316.90 sq. mtrs. The land is owned by State Government.

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.2. The said Public Notice dated 20.04.2022 to extent of subject SR Scheme is challenged by Respondent No.1 before the Hon'ble Apex Grievance Redressal Committee in Application (L) No.109 of 2022 and the Hon'ble Apex Grievance Redressal Committee through order dated 23.06.2022 set aside the Public Notice dated 20.04.2022 only to the extent of subject SR Scheme.





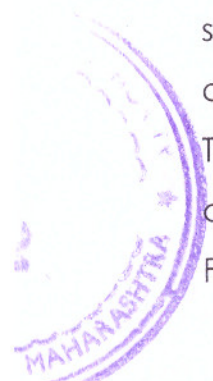
The record further reveals that one Nipun Thakar has filed Writ Petition (L) No.14017 of 2022 in Hon'ble High Court challenging the Public Notice dated 20.04.2022. The Hon'ble High Court through order dated 10.01.2023 quashed the said Public Notice dated 20.04.2022 recording 517 SR Schemes. While quashing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

**"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 submitted on behalf of Respondent No.1 that the delay is not attributable to them and same has occurred due to interim order of Hon'ble High Court in Writ Petition No.1152 of 2002 in respect of RG/PG reservation, CRZ restrictions, NOC of Defence Authority, etc.

On behalf of Applicant, Smt. Vandana Dattatray Garud claiming herself to be Chief Promoter appointed by Society in General Body Meeting dated 30.04.2023 has submitted written submission on record alleging that there is inordinate delay on the part of respondent No.1 for period of 20 years and there is gross failure and non-performance on the part of Respondent No.1. The Scheme is stand still and on these count the Respondent No.1 should be terminated as developer and liberty be granted to society to appoint new developer of its choice.

The Respondent No.3, Mr. Bhagwan Raghunath Banargee has also submitted written submission claiming himself to be the Chief Promoter appointed by Society in General Body Meeting dated 02.10.2016 & 07.01.2018. The note of Assistant Registrar/SRA dated 23.08.2023 reveals that as per record of Slum Rehabilitation Authority Mr. Bhagwan Raghunath Banargee is the Chief Promoter of Society. According to Respondent No.3 the Society is having full



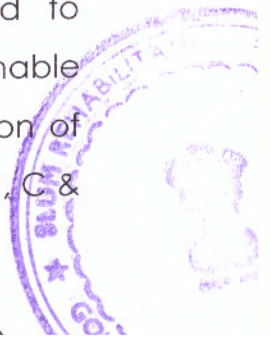


faith in Respondent No.1 and they are confident about the competency of Respondent No.1 to implement the subject SR Scheme.

During the course of hearing a submission was made by Respondent No.3 that the name of Smt. Vandana Dattatray Garud is not reflected in Annexure-II and she is having no locus standi. The copy of certified Annexure-II is on record. From said copy it appears that there is no name of Smt. Vandana Dattatray Garud appearing in certified Annexure-II and at Sr. No.18 of Annexure-II there appears to be name of her husband Mr. Dattatray Narayan Garud and he is declared ineligible. Considering the said fact this Authority is convinced to hold that Smt. Vandana Garud is having no locus standi to file present application as Chief Promoter of Society.

According to Respondent No.1 the subject SR Scheme is delayed mainly due to orders of Hon'ble High Court in the matter of Citispace i.e. Writ Petition No.1152 of 2002. Moreover the subject SR Scheme is affected by CRZ and there is Defence Establishment nearby, due to which the NOC of concerned Authorities were required. Though they complied with all norms they could not get clearances due to aforesaid issues. Now the issue of Defence is also cleared. Due to enforcement of DCPR, 2034, the redevelopment is possible on RG/PG plot in the ratio of 65:35. There is order of Hon'ble Apex Grievance Redressal Committee dated 23.06.2022 in Application No.109 of 2022. The said application was filed by Respondent No.1 challenging the recording of Scheme through Public Notice dated 20.04.2022. The Hon'ble Apex Grievance Redressal Committee has allowed the Application of Respondent No.1 and set aside the recording of Scheme with observation that delay is mainly due to orders in Writ Petition No.1152 of 2002 and Respondent No.1 i.e. Applicant therein is not at all responsible for delay in implementation of subject SR Scheme.

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 interim order of Hon'ble High Court in Citispace matter as well as CRZ issue. 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:- 28 DEC 2023

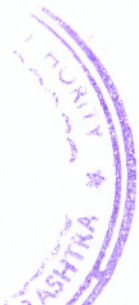
  
Chief Executive Officer  
Slum Rehabilitation Authority

No.SRA/CEO/13(2)/Shiv Shastri Nagar Macchimar CHS (Prop.)/79 /2023.

Date: 28 DEC 2023

Copy to:

1. Shiv Shastri Nagar Macchimar CHS (Prop.)  
Represented through Smt. Vandana Dattatray Garud  
Shiv Shastri Nagar, Captain Prakash  
Pethe Marg, Cuffee Parade,  
Colaba, Mumbai - 400 005





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Shiv Shastri Nagar, Captain Prakash  
Pethe Marg, Cuffee Parade,  
Colaba, Mumbai - 400 005
5. Dy. Chief Engineer/SRA
6. Executive Engineer (A-Ward)/SRA
7. Deputy Collector (Spl. Cell)/SRA
8. Financial Controller/SRA
9. Assistant Registrar (City)/SRA
10. Information Technology Officer/SRA
- ✓ 11. Chief Legal Consultant/SRA

