



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

**File No.RS/PL/0061/20100122**

Apna Nagar Adarsh SRA CHS Ltd.  
CTS No.62, 62/1 to 18, 63, 63/ 1 to 217,  
64 & 64/1 to 12 of Village Akurli  
at Akurli Road, Kandivali (East),  
Mumbai - 400 101

... Applicant

V/s

1. M/s. Navkar Constructions (Venture),  
Poddar Group Building, Mathurdas Mill  
Compound, 126, N.M. Joshi Marg,  
Lower Parel (West), Mumbai - 400 013

2. M/s. Poddar Housing & Development Ltd. (Co-Venture)  
Poddar Group Building, Mathurdas Mill  
Compound, 126, N.M. Joshi Marg,  
Lower Parel (West), Mumbai - 400 013

3. M/s. UB Architects,  
602-B, Sarvoday 11, Kher Nagar,  
Bandra (East), Mumbai - 400 051

... Respondents

**ORDER**

**(Passed on - 29 DEC 2023)**

The present proceeding is initiated pursuant to the Application of Applicant i.e. Apna Nagar Adarsh SRA CHS Ltd. dated 10.08.2022 u/s 13 (2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 to terminate the appointment of Respondent No.2 co-developer i.e. M/s. Poddar Housing & Development Ltd. in respect of the SR Scheme on plot of land bearing CTS No.62, 62/1 to 18, 63, 63/1 to 217, 64 & 64/1 to 12 of Village Akurli at Akurli Road, Kandivali (East) for Applicant society viz. Apna Nagar Adarsh SRA CHS Ltd. on the ground of inordinate delay



caused by them in implementation of said SR Scheme. In brief the facts which lead to present proceedings are as under;

**FACTS IN BRIEF**

Occupants/slum dwellers residing on plot of land bearing CTS No.62, 62/1 to 18, 63, 63/1 to 217, 64 & 64/1 to 12 of Village Akurli at Akurli Road, Kandivali (East) (Hereinafter referred to as the subject SR Scheme) have formed society Apna Nagar Adarsh SRA CHS Ltd. and appointed M/s. Navkar Constructions, Respondent No.1 as their Developer by passing resolution. Pursuant to appointment the Respondent No.1 submitted the proposal to Slum Rehabilitation Authority and the same was accepted on 22.01.2010. The land under subject SR Scheme is a private person.

The Additional Collector (Enc. & Rem.), has issued certified Annexure-II on 02.11.2010 of total 315 slum dwellers out of which 213 slum dwellers were held eligible. On the basis certified Annexure-II issued by the Additional Collector (Enc. & Rem.), the Slum Rehabilitation Authority approved the Scheme and issued Letter of Intent on 23.12.2010. Intimation of Approval for Composite Building was issued on 26.07.2012. The Applicant has appointed Respondent No.2 as co-developer by passing resolution. Thereafter Revised Letter of Intent was issued on 21.06.2019 & 20.07.2021. Amended Intimation of Approval for Composite Building was issued on 03.03.2022. However thereafter there is absolutely no progress in subject SR Scheme and the Scheme is stand still.

The Apna Nagar Adarsh SRA CHS Ltd. has submitted Application dated 10.08.2022 wherein they have stated that in its Special General Body Meeting dated 03.07.2022 the society decided to terminate the appointment of Respondent No.2 as co-developer. The matter was heard on 08.09.2022 & 23.09.2022. On 23.09.2022, representatives of Applicant Society remain present alongwith Adv. Ashok Yadav. The Respondent No.1 and Respondent No.2 also remain present. The parties were heard at length and matter was closed for order. Liberty was granted to parties to submit their written submissions within 7 days.



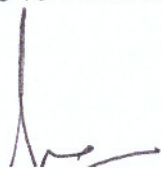


Though Respondent No.1 remain present for hearing, he has failed to submit written submission on record.

**ARGUMENTS OF APPLICANT i.e. APNA NAGAR ADARSH SRA CHS LTD.**

The Apna Nagar Adarsh SRA CHS Ltd. has submitted an application dated 10.08.2022 for termination of the appointment of M/s. Poddar Housing & Development Ltd. as co-developer in subject SR Scheme. According to Applicant occupants on said land have formed Apna Nagar Adarsh SRA CHS and appointed Respondent No.1 as developer to implement subject SR Scheme. The Applicant stated that they have entered into Development Agreement and Power of Attorney with Respondent No.1 i.e. M/s. Navkar Constructions for redevelopment of said land. Pursuant to the appointment, the Respondent No.1 submitted proposal to this Authority and same is accepted on 22.01.2010. The Additional Collector (Enc. & Rem.), has issued certified Annexure-II on 02.11.2010. The Letter of Intent was issued on 09.03.2012 and Intimation of Approval on 26.07.2012. It is further version of Applicant that due to noncompliance of COD conditions, the subject SR Scheme is stopped. But after follow up on the part of Respondent No.1, in the year 2017 the Government has removed the COD condition and thereafter the development was again started.

According to Applicant, the Respondent No.2 has purchased the said land from Respondent No.1 through Conveyance Deed dated 27.01.2017. It is further version of Applicant that, the Respondent No.1 with their consent have involved M/s. Poddar Housing & Development Ltd. and his appointment was duly confirmed by them in General Body Meeting dated 02.04.2017. The Applicant society in the year 2020 filed complaint to the cooperative department in respect of non-payment of transit rent by Respondent No.2. But inspite of directions of Assistant Registrar/SRA, the Respondent No.2 failed to pay transit rent to Applicant. Even the cheques paid by Respondent No.2 were also bounced due to insufficient fund.





According to Applicant, there is Suit filed in Waqf Tribunal in respect of Masjid against Respondents and the Waqf Tribunal has granted stay on 24.02.2021 for masjid area and permitted developer to implement the subject SR Scheme by keeping the masjid area where is as it is. Subsequently the Respondents carved out the said Masjid area and obtained revised Letter of Intent on 20.07.2021. It is further version of Applicant that from the date of appointment of Respondent No.2 as co-developer except creating litigation, the Respondent No.2 has not done any development in subject SR Scheme.

According to Applicant, since there was inordinate delay in subject SR Scheme, the appointment of Respondent No.2 was terminated by them through Special General Body Meeting dated 03.07.2022 and resolution to that effect is also passed by the society. The Applicant stated that without taking into confidence to Respondent No.1, Applicant as well as this Authority, the Respondent No.2 has issued Public Notice dated 23.07.2022 for sale of subject SR Scheme and accordingly the objections were also raised to said transaction. On these grounds the Applicant has prayed to terminate the appointment of Respondent No.2 as co-developer.

**ARGUMENTS OF RESPONDENT NO.2 i.e. M/S. PODDAR HOUSING AND DEVELOPMENT LTD.**

According to Respondent No.2 the occupants on said land have formed Apna Nagar Adarsh SRA CHS Ltd. and through General Body Resolution dated 05.05.2006 appointed Respondent No.1 as developer to implement the subject SR Scheme. The Respondent No.2 stated that the Applicant entered into Development Agreement dated 14.06.2006 and Power of Attorney dated 16.06.2006 in favour of Respondent No.1 for redevelopment of said land. Pursuant to appointment proposal of subject SR Scheme is submitted by Respondent No.1 to this Authority and same is duly accepted on 22.01.2010. Since the year 2010 to 2017 the Respondent No.1 failed to show any progress in subject SR Scheme, so they decided to engage Respondent No.2 as co-developer in subject SR Scheme and accordingly through Deed of





Conveyance dated 27.01.2017 Respondent No.2 has acquired the ownership rights in respect of said land from Respondent No.1. The Respondent No.2 is also appointed as co-developer through resolution dated 02.04.2017 by Applicant society.

It is further version of Respondent No.2 that, pursuant to their appointment they have paid transit rent as well as shifting charges to the tune of Rs.17.83 Crores till September, 2022. The Respondent No.2 have invested Rs.127.99 Crores including acquisition of land, payment of rent to slum dwellers, approvals, advance to Respondent No.1, interest burden, day to day management expenses, etc. in subject SR Scheme.

It is the case of Respondent No.2 that one Mr. Aslam Alamgir Malkani filed a Suit No.246 of 2018 before the Maharashtra Waqf Tribunal at Aurangabad claiming part of the said land as Waqf property and through order dated 01.01.2019 the Waqf Tribunal has granted status quo in respect of part of said land. Later on said portion of land was carved out and revised plan was submitted to this Authority. There is another Suit filed by Azad Hind Ittehad U1 Muslimeen Committee being Suit No.86 of 2020 before the Maharashtra Waqf Tribunal at Aurangabad claiming part of said land as Waqf property and same is pending. It is further version of Respondent No.2 that due to Covid-19 pandemic situation in or about March 2020 till January 2022 the huts cannot be demolished. Despite the said facts, the Respondent No.2 has obtained revised Letter of Intent & Amended Intimation of Approval in the year 2021.

According to Respondent No.2 since their appointment as co-developer they have demolished 258 slum structures on site and shifted slum dwellers on payment of transit rent. The remaining 58 slum structures are still on site due to various litigations before the Hon'ble Court. So far as the issue of bounced cheques for transit rent is concern, the Respondent No.2 has informed the slum dwellers not to deposit the cheques as they are making electronic transfer to respective slum dwellers. It is further version of Respondent No.2 that



being the owner and co-developer of the subject SR Scheme they have issued Public Notice for obtaining title certificate in respect of said land in order to obtain finance from financial institution. On these grounds the Respondent No.2 has prayed to reject the application submitted u/s 13 (2) of the Maharashtra Slum Area (I, C & R) Act, 1971.

**ISSUES & DISCUSSIONS:-**

The broad facts of the scheme which are already narrated while dealing the submissions of parties will have to be taken into consideration. The scheme was initially initiated by the developer M/s. Navkar Constructions at the instance of the Applicant society. It is also further observed from the arguments commenced before this Authority that the delay in implementation of subject SR Scheme is occurred due to litigation before Hon'ble Court between slum dwellers and Respondent No.2. Now, this Authority has to decide whether there is intentional delay occurred 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.

According to Respondent No.2 the delay is occurred due to litigations before the Waqf Tribunal. The said litigations are as under;

- a. One Aslam Alamgir Malkani filed a Suit No.246 of 2018 before the Waqf Tribunal at Aurangabad claiming part of said property as Waqf property. The Waqf Tribunal has granted status quo through order dated 01.01.2019 in respect of the part of the property. Due to said status quo order the Respondent No.2 required to carved out the said part of the





property from subject SR Scheme. The said Suit is pending before the Waqf Tribunal.

- b. One Azad Hind Ittehad U1 Muslimeen Committee file a Suit No.86 of 2020 before the Waqf Tribunal at Aurangabad claiming part of the property as Waqf property. The said Suit is pending before the Waqf Tribunal.
- c. Apart from the above the slum dwellers have filed various litigations before the CEO/SRA, City Civil Court at Dindoshi & Writ Petition against 33 & 38 proceedings of Slum Act in Hon'ble High Court.

The rights of slum dwellers are limited to extent of their rehabilitation and they cannot challenge the entire rehabilitation scheme for their own benefit. There is copy of report of DSLR/SRA dated 17.12.2020 on record. As per said report it appears that the said land originally stands in the name of M/s. Sanjay Apartments. Through registered Deed of Conveyance dated 14.02.2008, the rights, title and interest in respect of said land is transferred in favour of M/s. Navkar Constructions. Subsequently through registered Deed of Conveyance dated 27.01.2017, M/s. Navkar Constructions has again transferred the rights, title and interest in respect of said land in favour of M/s. Poddar Housing & Development Ltd.

The Respondent No.2 has shown his willingness to take further the scheme for so many reasons stated in his written submission. M/s. Poddar Housing and Development Ltd. have been appointed as Co-Developer in the Special General Body Meeting dated 02.04.2017 of the Applicant society and a resolution to that effect has been passed in Special General Body Meeting.

There is letter of Applicant society dated 06.12.2023 on record. In said letter the Applicant has stated that they have received the arrears of transit rent as well as advance rent from the Respondents and they have no any grievance against Respondents in respect of payment of transit rent.





In the circumstances it will be appropriate to give an opportunity to complete the scheme. It is pertinent to note that the Respondent No.2 is owner of the land of subject SR Scheme. In the event of termination of Respondent No.2, the Applicant 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 it will be just and proper to give opportunity to Respondent No.2 to complete the subject SR Scheme in time bound manner. Accordingly following order is passed.

**ORDER**

1. The Application of the Applicant society i.e. Apna Nagar Adarsh SRA CHS Ltd dated 10.08.2022 is hereby rejected.
2. The Developer i.e. M/s. Navkar Constructions and Co-Developer i.e. M/s. Poddar Housing and Development Ltd. are directed to take all the necessary steps to obtain further permissions and approvals as per rules and regulations at earliest.
3. The Respondent No.1 & 2 are hereby directed to submit Bar Chart within one month to Executive Engineer and to complete the rehabilitation of slum dwellers in accordance with Bar Chart in time bound manner.
4. The Developer i.e. M/s. Navkar Constructions and Co-Developer i.e. M/s. Poddar Housing and Development Ltd. are hereby directed to comply with circular no.210 of Slum Rehabilitation Authority.
5. The Applicant i.e. Apna Nagar Adarsh SRA CHS Ltd. is also directed to give all the necessary co-operation to speedy completion of the scheme.

Date: 29 DEC 2023  
Place:

Chief Executive Officer  
Slum Rehabilitation Authority

No.: SRA/CEO order/ Apna Nagar/78/23  
Date: 29 DEC 2023





Copy to:

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5. Tahsildar-2/SRA
6. Dy. Chief Engineer/SRA
7. Executive Engineer R/S Ward/SRA
8. Financial Controller/SRA
9. Asst. Registrar C.S. (Western Suburbs)/SRA
10. Information Technology Officer/SRA.
11. Chief Legal Consultant/SRA.

